

[STAFF WORKING DRAFT]

JUNE 24, 2003

108TH CONGRESS
1ST SESSION

S. ———

To authorize funds for highway safety programs, motor carrier safety programs, hazardous materials transportation safety programs, boating safety programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE ———, 2003

Mr. MCCAIN (for himself and Mr. HOLLINGS) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To authorize funds for highway safety programs, motor carrier safety programs, hazardous materials transportation safety programs, boating safety programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Surface Transpor-
3 tation Safety Reauthorization Act of 2003”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

Sec. 1. Short Title.
Sec. 2. Table of Contents.

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Sec. 101. Short title; amendment of title 23, United States Code.
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Sec. 103. Highway safety programs.
Sec. 104. Highway safety research and outreach programs.
Sec. 105. National highway safety advisory committee technical correction.
Sec. 106. School bus driver training.
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Sec. 108. Repeal of authority for alcohol traffic safety programs.
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Sec. 153. Vehicle crash ejection prevention.
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Sec. 155. Establishment of data base on injuries and deaths from motor vehicles in circumstances that do not involve traffic or accidents.
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Sec. 157. Improved crashworthiness.
Sec. 158. Aggressivity and incompatibility reduction standard.
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TITLE II—MOTOR CARRIER SAFETY AND UNIFIED CARRIER REGISTRATION

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Sec. 202. Required completion of overdue reports, studies, and rulemakings.
Sec. 203. Contract authority.

SUBTITLE A—MOTOR CARRIER SAFETY

Sec. 221. Minimum guarantee.
Sec. 222. Authorization of appropriations.
Sec. 223. Motor carrier safety grants.
Sec. 224. Study of CDL program.
Sec. 225. CDL learner's permit program.
Sec. 226. Hobbs Act.
Sec. 227. Penalty for denial of access to records.
Sec. 228. Medical review board and medical examiners.
Sec. 229. Operation of commercial motor vehicles by individuals who use insulin to treat diabetes mellitus.
Sec. 230. Financial responsibility for private motor carriers.
Sec. 231. Increased penalties for out-of-service violations and false records.
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Sec. 234. Authority to stop commercial motor vehicles.
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Sec. 236. Pattern of safety violations by motor carrier management.
Sec. 237. Motor carrier research and technology program.
Sec. 238. Review of commercial zone exemption provision.
Sec. 238. International cooperation.
Sec. 239. Performance and registration information system management.
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Sec. 241. Outreach and education.
Sec. 242. Technical correction.

TITLE III—HOUSEHOLD GOODS TRANSPORTATION

Sec. 301. Short title; amendment of title 49, United States Code.
Sec. 302. Findings; sense of Congress.
Sec. 303. Definitions.

- Sec. 304. Payment of rates.
- Sec. 305. Household goods carrier operations.
- Sec. 306. Liability of carriers under receipts and bills of lading.
- Sec. 307. Dispute settlement for shipments of household goods.
- Sec. 308. Enforcement of regulations related to transportation of household goods.
- Sec. 309. Working group for development of practices and procedures to enhance Federal-State relations.
- Sec. 310. Consumer handbook on DOT website.
- Sec. 311. Information about household goods transportation on carriers' websites.
- Sec. 312. Consumer complaints.
- Sec. 313. Review of liability of carriers.
- Sec. 314. Civil penalties relating to household goods brokers.
- Sec. 315. Civil and criminal penalty for failing to give up possession of household goods.
- Sec. 316. Progress report.

TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION SAFETY AND SECURITY

- Sec. 401. Short title; table of contents.
- Sec. 402. Amendment of title 49, United States Code.

SUBTITLE A—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

- Sec. 421. Purpose.
- Sec. 422. Definitions.
- Sec. 423. General regulatory authority.
- Sec. 424. Limitation on issuance of hazmat licenses.
- Sec. 425. Representation and tampering.
- Sec. 426. Transporting certain highly radioactive material.
- Sec. 427. Hazmat employee training requirements and grants.
- Sec. 428. Registration.
- Sec. 429. Shipping papers and disclosure.
- Sec. 430. Rail tank cars.
- Sec. 431. Highway routing of hazardous material.
- Sec. 432. Unsatisfactory safety ratings.
- Sec. 433. Air transportation of ionizing radiation material.
- Sec. 434. Training curriculum for the public sector.
- Sec. 435. Planning and training grants; emergency preparedness fund.
- Sec. 436. Special permits and exclusions.
- Sec. 437. Uniform forms and procedures.
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- Sec. 439. Hazardous materials transportation safety and security.
- Sec. 440. Enforcement.
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- Sec. 462. Mailability of hazardous materials.
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- Sec. 481. Short title.
- Sec. 482. Responsibilities of the Secretary of Health and Human Services.
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TITLE V—RECREATIONAL BOATING SAFETY PROGRAMS

- Sec. 501. Short title.

SUBTITLE A—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

- Sec. 521. Amendment of Federal Aid in Fish Restoration Act.
- Sec. 522. Authorization of appropriations.
- Sec. 523. Division of annual appropriations.
- Sec. 524. Maintenance of projects.
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- Sec. 526. Requirements and restrictions concerning use of amounts for expenses for administration.
- Sec. 527. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
- Sec. 528. Multistate conservation grant program.

SUBTITLE B—CLEAN VESSEL ACT AMENDMENTS

Sec. 541. Grant program.

SUBTITLE C—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

Sec. 561. State matching funds requirement.

Sec. 562. Availability of allocations.

Sec. 563. Authorization of appropriations for State recreational boating safety programs.

Sec. 564. Maintenance of effort for State recreational boating safety programs.

SUBTITLE D—AMENDMENTS TO THE TRUST FUND CODE

Sec. 581. Transfers from the trust fund for motorboat fuel taxes.

Sec. 582. Expenditures from the boat safety account.

1 **TITLE I—HIGHWAY SAFETY**

2 SUBTITLE A—HIGHWAY SAFETY GRANT PROGRAM

3 **SEC 101. SHORT TITLE; AMENDMENT OF TITLE 23, UNITED**
4 **STATES CODE.**

5 (a) SHORT TITLE.—This subtitle may be cited as the
6 “Highway Safety Grant Program Reauthorization Act of
7 2003”.

8 (b) AMENDMENT OF TITLE 23, UNITED STATES
9 CODE.—Except as otherwise expressly provided, whenever
10 in this subtitle an amendment or repeal is expressed in
11 terms of an amendment to, or a repeal of, a section or
12 other provision, the reference shall be considered to be
13 made to a section or other provision of title 23, United
14 States Code.

15 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) AMOUNTS FOR FISCAL YEARS 2004 THROUGH
17 2009.—There are authorized to be appropriated from the
18 Highway Trust Fund (other than the Mass Transit Ac-
19 count) to the Secretary of Transportation for the National
20 Highway Traffic Safety Administration the following:

1 (1) To carry out the Highway Safety Programs
2 under section 402 of title 23, United States Code,
3 \$170,000,000 in fiscal year 2004, \$174,000,000 in
4 fiscal year 2005, \$179,000,000 in fiscal year 2006,
5 \$185,000,000 in fiscal year 2007, \$204,000,000 in
6 fiscal year 2008, and \$207,000,000 in fiscal year
7 2009.

8 (2) To carry out the Research and Outreach
9 Programs under section 403 of title 23, United
10 States Code, \$110,000,000 in fiscal year 2004,
11 \$112,000,000 in fiscal year 2005, \$114,000,000 in
12 fiscal year 2006, \$116,000,000 in fiscal year 2007,
13 \$118,000,000 in fiscal year 2008, and \$120,000,000
14 in fiscal year 2009.

15 (3) To carry out the Occupant Protection Pro-
16 grams under section 405 of title 23, United States
17 Code, \$120,000,000 in fiscal year 2004,
18 \$122,000,000 in fiscal year 2005, \$124,000,000 in
19 fiscal year 2006, \$126,000,000 in fiscal year 2007,
20 \$128,000,000 in fiscal year 2008, and \$130,000,000
21 in fiscal year 2009.

22 (4) To carry out the Emergency Medical Serv-
23 ices Program under section 407A of title 23, United
24 States Code, \$10,000,000 in each of fiscal years
25 2004 through 2009.

1 (5) To carry out the Impaired Driving Pro-
2 grams under section 410 of title 23, United States
3 Code, \$80,000,000 in fiscal year 2004, \$84,000,000
4 in fiscal year 2005, \$88,000,000 in fiscal year 2006,
5 \$105,000,000 in fiscal year 2007, \$121,000,000 in
6 fiscal year 2008, and \$125,000,000 in fiscal year
7 2009.

8 (6) To carry out the State Traffic Safety Infor-
9 mation System Improvements under section 412 of
10 title 23, United States Code, \$45,000,000 in each of
11 fiscal years 2004 through 2009.

12 (7) To carry out chapter 303 of title 49, United
13 States Code, \$4,000,000 for each of fiscal years
14 2004 through 2009.

15 (b) PROHIBITION ON OTHER USES.—Except as oth-
16 erwise provided in this title, the amounts allocated from
17 the Highway Trust Fund for programs provided for in
18 chapter 4 of title 23, United States Code, shall only be
19 used for such programs and may not be used by States
20 or local governments for construction purposes.

21 (c) EFFECT OF REVENUE DEFICIENCY.—If revenue
22 to the Highway Trust Fund for a given fiscal year is lower
23 than the amounts authorized by this subtitle, any subse-
24 quent reductions in the overall funding for highway and
25 transit programs shall not affect the highway safety pro-

1 grams provided for in chapter 4 of title 23, United States
2 Code.

3 (d) APPLICABILITY OF TITLE 23.—Amounts made
4 available under subsection (a)(2) for each of fiscal years
5 2004 through 2009 shall be available for obligation in the
6 same manner as if such funds were apportioned under
7 chapter 1 of title 23, United States Code.

8 (e) PROPORTIONAL INCREASES.—For each fiscal
9 year from 2004 through 2009, if revenue to the Highway
10 Trust Fund increases above the amounts for each such
11 fiscal year set forth in the fiscal year 2004 joint budget
12 resolution, then the amounts made available in such year
13 for the programs in sections 402, 405, and 410 shall in-
14 crease by the same percentage.

15 **SEC. 103. HIGHWAY SAFETY PROGRAMS.**

16 (a) PROGRAMS TO BE INCLUDED.—

17 (1) MOTOR VEHICLE AIRBAGS PUBLIC AWARE-
18 NESS.—Subsection (a) of section 402 is amended in
19 clause (2) of the fourth sentence by striking “and to
20 increase public awareness of the benefit of motor ve-
21 hicles equipped with airbags”.

22 (2) AGGRESSIVE DRIVING.—Subsection (a) of
23 such section is further amended—

24 (A) in the fourth sentence—

1 (i) by redesignating clause (6) as
2 clause (7); and

3 (ii) by inserting after “involving
4 school buses,” at the end of clause (5) the
5 following new clause: “(6) to reduce ag-
6 gressive driving and to educate drivers
7 about defensive driving,”; and

8 (B) in the tenth sentence, by inserting
9 “aggressive driving,” after “school bus acci-
10 dents,”.

11 (b) APPORTIONMENT.—

12 (1) TRIBAL GOVERNMENT PROGRAMS.—The
13 sixth sentence of section 402(c) is amended by strik-
14 ing “three-fourths of 1 percent” and inserting “2
15 percent”.

16 (c) EXTRA FUNDING FOR OCCUPANT PROTECTION
17 AND IMPAIRED DRIVING PROGRAMS.—Section 402 is
18 amended by inserting after subsection (g) the following
19 new subsection (h):

20 “(h) GRANTS.—Funds available to States under this
21 section may be used for making grants of financial assist-
22 ance for programs and initiatives authorized by sections
23 405 and 410 of this title.”.

24 (d) POLICE CHASE TRAINING.—Section 402 is
25 amended by adding at the end the following:

1 “(l) LIMITATION RELATING TO POLICE CHASE
2 TRAINING.—No State may receive any funds available for
3 fiscal years after fiscal year 2004 for programs under this
4 chapter until the State submits to the Secretary a written
5 statement that the State has actively encouraged all rel-
6 evant law enforcement agencies in that State to follow the
7 guidelines established for police chases issued by the Inter-
8 national Association of Chiefs of Police that are in effect
9 on the date on enactment of the Highway Safety Grant
10 Program Reauthorization Act of 2003.

11 “(m) CONSOLIDATION OF GRANT APPLICATIONS.—
12 The Secretary shall establish a process by which a State
13 may apply for all grants included under this chapter
14 through a single application with a single annual deadline.
15 The Bureau of Indian Affairs shall establish a similarly
16 simplified process for applications from Indian tribes.”.

17 **SEC. 104. HIGHWAY SAFETY RESEARCH AND OUTREACH**
18 **PROGRAMS.**

19 (a) REVISED AUTHORITY AND REQUIREMENTS.—
20 Section 403 is amended to read as follows:

21 **“§ 403. Highway safety research and development**

22 “(a) AUTHORITY OF THE SECRETARY.—The Sec-
23 retary is authorized to use funds appropriated to carry
24 out this section to—

1 “(1) conduct research on all phases of highway
2 safety and traffic conditions, including accident cau-
3 sation, highway or driver characteristics, commu-
4 nications, and emergency care;

5 “(2) conduct ongoing research into driver be-
6 havior and its effect on traffic safety;

7 “(3) conduct research on, and launch initiatives
8 to counter, fatigued driving by drivers of passenger
9 motor vehicles and distracted driving in such vehi-
10 cles, including the use of electronic devices and other
11 factors deemed relevant by the Secretary, have on
12 driving;

13 “(4) conduct training or education programs in
14 cooperation with other Federal departments and
15 agencies, States, private sector persons, highway
16 safety personnel, and law enforcement personnel;

17 “(4) conduct research on, and evaluate the ef-
18 fectiveness of, traffic safety countermeasures, includ-
19 ing seat belts and impaired driving initiatives; and

20 “(5) conduct demonstration projects.

21 “(b) SPECIFIC RESEARCH PROGRAMS.—

22 “(1) REQUIRED PROGRAMS.—The Secretary shall
23 conduct research on the following:

24 “(A) EFFECTS OF USE OF CONTROLLED
25 SUBSTANCES.—A study on the effects of the

1 use of controlled substances on driver behavior
2 to determine—

3 “(i) methodologies for measuring driv-
4 er impairment resulting from use of the
5 most common controlled substances (in-
6 cluding the use of such substances in com-
7 bination with alcohol); and

8 “(ii) effective methods for training
9 law enforcement personnel to detect or
10 measure the level of impairment of a driver
11 who is under the influence of a controlled
12 substance by the use of technology or oth-
13 erwise.

14 “(B) ON-SCENE MOTOR VEHICLE COLLI-
15 SION CAUSATION.—A nationally representative
16 study to collect on-scene motor vehicle collision
17 data, and to determine crash causation, for
18 which the Secretary shall enter into a contract
19 with the National Academy of Sciences to con-
20 duct a review of the research, design, method-
21 ology, and implementation of the study.

22 “(C) TOLL FACILITIES WORKPLACE SAFE-
23 TY.—A study on the safety of highway toll col-
24 lection facilities, including toll booths, to deter-
25 mine the safety of highway toll collection facili-

1 ties for the toll collectors who work in and
2 around such facilities, including consideration
3 of—

4 “(i) any problems resulting from de-
5 sign or construction of facilities that con-
6 tribute to the occurrence of vehicle colli-
7 sions with the facilities;

8 “(ii) the safety of crosswalks used by
9 toll collectors in transit to and from toll
10 booths;

11 “(iii) the extent of the enforcement of
12 speed limits at and in the vicinity of toll
13 facilities;

14 “(iv) the use of warning devices, such
15 as vibration and rumble strips, to alert
16 drivers approaching toll facilities;

17 “(v) the use of cameras to record traf-
18 fic violations in the vicinity of toll facilities;

19 “(vi) the use of traffic control arms in
20 the vicinity of toll facilities;

21 “(vii) law enforcement practices and
22 jurisdictional issues that affect safety at
23 and in the vicinity of toll facilities; and

24 “(viii) data (which shall be collected
25 in conducting the research) regarding the

1 incidence of accidents and injuries at and
2 around toll booth facilities.

3 “(2) TIME FOR COMPLETION OF STUDIES.—

4 The studies conducted in subparagraphs (A), (B),
5 and (C) may be conducted in concert with other
6 Federal departments and agencies with relevant ex-
7 pertise. The Secretary shall submit an annual report
8 to the Senate Committee on Commerce, Science, and
9 Transportation and the House of Representatives
10 Committee on Transportation and Infrastructure on
11 the progress of each study conducted under this sub-
12 section.

13 “(3) ONGOING STUDIES.—The studies under
14 subparagraphs (A) and (B) shall be conducted on an
15 ongoing basis.

16 “(4) REPORTS.—

17 “(A) ONE-TIME STUDIES.—Not later than
18 2 years after the date of enactment of the
19 Highway Safety Grant Program Reauthoriza-
20 tion Act of 2003, the Secretary shall submit a
21 final report on the study referred to in para-
22 graph (1)(C) to the Committee on Commerce,
23 Science, and Transportation Committee of the
24 Senate and the Committee on Transportation

1 and Infrastructure Committee of the House of
2 Representatives.

3 “(B) ONGOING STUDIES.—The Secretary
4 shall submit a report on the studies referred to
5 in paragraph (3) to the Committees of Congress
6 referred to in subparagraph (A) not later than
7 September 30, 2005, and shall submit addi-
8 tional reports on such studies to such commit-
9 tees each year thereafter until September 30,
10 2009.

11 “(c) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—

12 “(1) REQUIREMENT FOR CAMPAIGNS.—The Ad-
13 ministrator of the National Highway Traffic Safety
14 Administration shall establish and administer a pro-
15 gram under which 3 high-visibility traffic safety law
16 enforcement campaigns will be carried out for the
17 purposes specified in paragraph (2) in each of years
18 2004 through 2009.

19 “(2) PURPOSE.—The purpose of each law en-
20 forcement campaign is to achieve either or both of
21 the following objectives:

22 “(A) Reduce alcohol-impaired or drug-im-
23 paired operation of motor vehicles.

24 “(B) Increase use of seat belts by occu-
25 pants of motor vehicles.

1 “(3) ADVERTISING.—The Administrator may
2 use, or authorize the use of, funds available under
3 this section to pay for the development, production,
4 and use of broadcast and print media advertising in
5 carrying out traffic safety law enforcement cam-
6 paigns under this subsection. Consideration shall be
7 given to advertising directed at non-English speak-
8 ing populations, including those who listen, read, or
9 watch nontraditional media.

10 “(4) COORDINATION WITH STATES.—The Ad-
11 ministrator shall coordinate with the States in car-
12 rying out the traffic safety law enforcement cam-
13 paigns under this subsection, including advertising
14 funded under paragraph (3), with a view to—

15 “(A) relying on States to provide most of
16 the law enforcement resources for the cam-
17 paigns out of funding available under this sec-
18 tion and section 405 and 410 of this title; and

19 “(B) providing out of National Highway
20 Traffic Safety Administration resources most of
21 the means necessary for national advertising
22 and education efforts associated with the law
23 enforcement campaigns.

24 “(5) FUNDING.—The Secretary shall use
25 \$24,000,000 in each of fiscal years 2004 through

1 2009 for advertising and educational initiatives to be
2 carried out nationwide in support of the campaigns
3 under this section, as well as for the annual evalua-
4 tion conducted under this section.

5 “(d) AGING DRIVERS SAFETY ISSUES.—

6 “(1) IN GENERAL.—Of the funds made avail-
7 able under this section, the Secretary shall allocate
8 \$2,000,000 in each of fiscal years 2004 through
9 2009 to conduct a comprehensive research and dem-
10 onstration program to improve traffic safety per-
11 taining to older drivers. The program shall—

12 “(A) provide information and guidelines to
13 assist physicians and other related medical per-
14 sonnel, families, licensing agencies, enforcement
15 officers, and various public and transit agencies
16 in enhancing the safety and mobility of older
17 drivers;

18 “(B) improve the scientific basis of medical
19 standards and screenings strategies used in the
20 licensing of all drivers in a non-discriminatory
21 manner;

22 “(C) conduct field tests to assess the safe-
23 ty benefits and mobility impacts of different
24 driver licensing strategies and driver assess-
25 ment and rehabilitation methods;

1 “(D) assess the value and improve the
2 safety potential of driver retraining courses of
3 particular benefit to older drivers; and

4 “(E) conduct other activities to accomplish
5 the objectives of this action.

6 “(2) FORMULATION OF PLAN.—After consulta-
7 tion with affected parties, the Secretary shall formu-
8 late an older driver traffic safety plan to guide the
9 design and implementation of this program. The
10 plan shall be submitted to the House Committee on
11 Transportation and Infrastructure and the Senate
12 Committee on Commerce, Science, and Transpor-
13 tation.

14 “(f) POLICE CHASE TRAINING.—

15 “(1) REQUIREMENT FOR PROGRAM.—The Ad-
16 ministrators of the National Highway Traffic Safety
17 Administration shall carry out a program to train
18 law enforcement personnel of each State and polit-
19 ical subdivision thereof in police chase techniques
20 that are consistent with the police chase guidelines
21 issued by the International Association of Chiefs of
22 Police.

23 “(2) AMOUNT FOR PROGRAM.—Of the amount
24 available for a fiscal year to carry out this section,

1 \$200,000 shall be available for carrying out this
2 subsection.

3 “(g) INTERNATIONAL COOPERATION.—

4 “(1) AUTHORITY.—The Administrator of the
5 National Highway Traffic Safety Administration
6 may participate and cooperate in international ac-
7 tivities to enhance highway safety.

8 “(2) AMOUNT FOR ACTIVITIES.—Of the amount
9 available for a fiscal year to carry out this section,
10 \$200,000 may be used for activities authorized
11 under paragraph (1).”.

12 **SEC. 105. NATIONAL HIGHWAY SAFETY ADVISORY COM-**
13 **MITTEE TECHNICAL CORRECTION.**

14 Section 404(d) is amended by striking “Secretary of
15 Commerce” and inserting “Secretary of Transportation”.

16 **SEC. 106. SCHOOL BUS DRIVER TRAINING.**

17 Section 406(c) is amended by striking the first, sec-
18 ond, and third sentences.

19 **SEC. 107. EMERGENCY MEDICAL SERVICES.**

20 (a) FEDERAL COORDINATION AND ENHANCED SUP-
21 PORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 is
22 amended by inserting after section 407 the following new
23 section:

1 **“§ 407A. Federal coordination and enhanced support**
2 **of emergency medical services**

3 “(a) FEDERAL INTERAGENCY COMMITTEE ON EMER-
4 GENCY MEDICAL SERVICES.—

5 “(1) ESTABLISHMENT.—The Secretary of
6 Transportation and the Secretary of Homeland Se-
7 curity, jointly acting through the Under Secretary of
8 Transportation for Emergency Preparedness and
9 Response, shall establish a Federal Interagency
10 Committee on Emergency Medical Services. In es-
11 tablishing the Interagency Committee, the Under
12 Secretary shall consult with the Secretary of Health
13 and Human Services.

14 “(2) MEMBERSHIP.—The Interagency Com-
15 mittee shall consist of the following officials, or their
16 designees:

17 “(A) The Administrator, National High-
18 way Traffic Safety Administration.

19 “(B) The Director, Preparedness Division,
20 Emergency Preparedness and Response Direc-
21 torate, Department of Homeland Security.

22 “(C) The Administrator, Health Resources
23 and Services Administration, Department of
24 Health and Human Services.

1 “(D) The Director, Centers for Disease
2 Control and Prevention, Department of Health
3 and Human Services.

4 “(E) The Administrator, United States
5 Fire Administration, Emergency Preparedness
6 and Response Directorate, Department of
7 Homeland Security.

8 “(F) The Director, Center for Medicare
9 and Medicaid Services, Department of Health
10 and Human Services.

11 “(G) The Undersecretary of Defense for
12 Personnel and Readiness.

13 “(H) The Assistant Secretary for Public
14 Health Emergency Preparedness, Department
15 of Health and Human Services.

16 “(I) The Director, Indian Health Service,
17 Department of Health and Human Services.

18 “(J) The Chief, Wireless Telecom Bureau,
19 Federal Communications Commission.

20 “(K) A representative of any other Federal
21 agency identified by the Secretary of Transpor-
22 tation or the Secretary of Homeland Security
23 through the Under Secretary for Emergency
24 Preparedness and Response, in consultation
25 with the Secretary of Health and Human Serv-

1 ices, as having a significant role in relation to
2 the purposes of the Interagency Committee.

3 “(3) PURPOSES.—The purposes of the Inter-
4 agency Committee are as follows:

5 “(A) To ensure coordination among the
6 Federal agencies involved with State, local, trib-
7 al, or regional emergency medical services and
8 9–1–1 systems.

9 “(B) To identify State, local, tribal, or re-
10 gional emergency medical services and 9–1–1
11 needs.

12 “(C) To recommend new or expanded pro-
13 grams, including grant programs, for improving
14 State, local, tribal, or regional emergency med-
15 ical services and implementing improved emer-
16 gency medical services communications tech-
17 nologies, including wireless 9–1–1.

18 “(D) To identify ways to streamline the
19 process through which Federal agencies support
20 State, local, tribal or regional emergency med-
21 ical services.

22 “(E) To assist State, local, tribal or re-
23 gional emergency medical services in setting
24 priorities based on identified needs.

1 “(F) To advise, consult, and make rec-
2 ommendations on matters relating to the imple-
3 mentation of the coordinated State emergency
4 medical services programs.

5 “(4) ADMINISTRATION.—The Administrator of
6 the National Highway Traffic Safety Administra-
7 tion, in cooperation with the Director, Preparedness
8 Division, Emergency Preparedness and Response Di-
9 rectorate, Department of Homeland Security, shall
10 provide administrative support to the Interagency
11 Committee, including scheduling meetings, setting
12 agendas, keeping minutes and records, and pro-
13 ducing reports.

14 “(5) LEADERSHIP.—The members of the Inter-
15 agency Committee shall select a chairperson of the
16 Committee annually.

17 “(6) MEETINGS.—The Interagency Committee
18 shall meet as frequently as is determined necessary
19 by the chairperson of the Committee.

20 “(7) ANNUAL REPORTS.—The Interagency
21 Committee shall prepare an annual report to Con-
22 gress on the Committee’s activities, actions, and rec-
23 ommendations.

24 “(b) COORDINATED NATIONWIDE EMERGENCY MED-
25 ICAL SERVICES PROGRAM.—

1 “(1) PROGRAM REQUIREMENT.—The Secretary
2 of Transportation, acting through the Administrator
3 of the National Highway Traffic Safety Administra-
4 tion, shall coordinate with officials of other Federal
5 departments and agencies, and may assist State and
6 local governments and emergency medical services
7 organizations (whether or not a firefighter organiza-
8 tion), private industry, and other interested parties,
9 to ensure the development and implementation of a
10 coordinated nationwide emergency medical services
11 program that is designed to strengthen transpor-
12 tation safety and public health and to implement im-
13 proved emergency medical services communication
14 systems, including 9–1–1.

15 “(2) COORDINATED STATE EMERGENCY MED-
16 ICAL SERVICES PROGRAM.—Each State shall estab-
17 lish a program, to be approved by the Secretary, to
18 coordinate the emergency medical services and re-
19 sources deployed throughout the State, so as to
20 ensure—

21 “(A) improved emergency medical services
22 communication systems, including 9–1–1;

23 “(B) utilization of established best prac-
24 tices in system design and operations;

1 “(C) implementation of quality assurance
2 programs; and

3 “(D) incorporation of data collection and
4 analysis programs that facilitate system devel-
5 opment and data linkages with other systems
6 and programs useful to emergency medical serv-
7 ices.

8 “(3) ADMINISTRATION OF STATE PROGRAMS.—
9 The Secretary may not approve a coordinated State
10 emergency medical services program under this sub-
11 section unless the program—

12 “(A) provides that the Governor of the
13 State is responsible for its administration
14 through a State office of emergency medical
15 services that has adequate powers and is suit-
16 ably equipped and organized to carry out such
17 program and coordinates such program with the
18 highway safety office of the State; and

19 “(B) authorizes political subdivisions of the
20 State to participate in and receive funds under
21 such program, consistent with a goal of achiev-
22 ing statewide coordination of emergency medical
23 services and 9–1–1 activities.

24 “(4) FUNDING.—

1 “(A) USE OF FUNDS.—Funds authorized
2 to be appropriated to carry out this subsection
3 shall be used to aid the States in conducting co-
4 ordinated emergency medical services and 9–1–
5 1 programs as described in paragraph (2).

6 “(B) ADMINISTRATIVE EXPENSES.—The
7 total amount of the funds authorized to be ap-
8 propriated for a fiscal year to carry out this
9 subsection shall be subject to a deduction of an
10 amount not in excess of 10 percent for the nec-
11 essary costs of administering the provisions of
12 this subsection.

13 “(C) APPORTIONMENT.—

14 “(i) APPORTIONMENT FORMULA.—
15 The funds remaining after deduction of the
16 amount under subparagraph (B) shall be
17 apportioned as follows: 75 percent in the
18 ratio that the population of each State
19 bears to the total population of all the
20 States, as shown by the latest available
21 Federal census, and 25 percent in the ratio
22 that the public road mileage in each State
23 bears to the total public road mileage in all
24 States. For the purpose of this subpara-
25 graph, a ‘public road’ means any road

1 under the jurisdiction of and maintained
2 by a public authority and open to public
3 travel. Public road mileage as used in this
4 subsection shall be determined as of the
5 end of the calendar year prior to the year
6 in which the funds are apportioned and
7 shall be certified by the Governor of the
8 State and subject to approval by the Sec-
9 retary.

10 “(ii) MINIMUM APPORTIONMENT.—
11 The annual apportionment to each State
12 shall not be less than one-half of 1 percent
13 of the total apportionment, except that the
14 apportionment to the Secretary of the Inte-
15 rior on behalf of Indian tribes shall not be
16 less than three-fourths of 1 percent of the
17 total apportionment, and the appor-
18 tionments to the Virgin Islands, Guam, Amer-
19 ican Samoa, and the Commonwealth of the
20 Northern Mariana Islands shall not be less
21 than one-quarter of 1 percent of the total
22 apportionment.

23 “(5) APPLICABILITY OF CHAPTER 1.—Section
24 402(d) of this title shall apply in the administration
25 of this subsection.

1 “(6) FEDERAL SHARE.—The Federal share of
2 the cost of a project or program funded under this
3 subsection shall be 80 percent.

4 “(7) APPLICATION IN INDIAN COUNTRY.—

5 “(A) USE OF TERMS.—For the purpose of
6 application of this subsection in Indian country,
7 the terms ‘State’ and ‘Governor of the State’
8 include the Secretary of the Interior and the
9 term ‘political subdivisions of the State’ in-
10 cludes an Indian tribe.

11 “(B) INDIAN COUNTRY DEFINED.—In this
12 subsection, the term ‘Indian country’ means—

13 “(i) all land within the limits of any
14 Indian reservation under the jurisdiction of
15 the United States, notwithstanding the
16 issuance of any patent and including
17 rights-of-way running through the reserva-
18 tion;

19 “(ii) all dependent Indian commu-
20 nities within the borders of the United
21 States, whether within the original or sub-
22 sequently acquired territory thereof and
23 whether within or without the limits of a
24 State; and

1 “(iii) all Indian allotments, the Indian
2 titles to which have not been extinguished,
3 including rights-of-way running through
4 such allotments.

5 “(c) STATE DEFINED.—In this section, the term
6 ‘State’ means any one of the fifty States, the District of
7 Columbia, Puerto Rico, the Virgin Islands, Guam, Amer-
8 ican Samoa, the Commonwealth of the Northern Mariana
9 Islands, and the Secretary of the Interior on behalf of In-
10 dian tribes.

11 “(d) CONSTRUCTION WITH RESPECT TO DISTRICT
12 OF COLUMBIA.—In the administration of this section with
13 respect to the District of Columbia, a reference in this
14 section to the Governor of a State shall refer to the Mayor
15 of the District of Columbia.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 4 is amended by inserting
18 after the item relating to section 407 the following new
19 item:

 “407A. Federal coordination and enhanced support of emergency medical serv-
 ices.”.

20 **SEC. 108. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC**
21 **SAFETY PROGRAMS.**

22 (a) REPEAL.—Section 408 is repealed.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 4 is amended by striking the
3 item relating to section 408.

4 **SEC. 109. IMPAIRED DRIVING PROGRAM.**

5 (a) MAINTENANCE OF EFFORT.—Paragraph (2) of
6 subsection (a) of section 410 is amended by striking “the
7 Transportation Equity Act for the 21st Century” and in-
8 serting “the Highway Safety Grant Program Reauthoriza-
9 tion Act of 2003”.

10 (b) REVISED GRANT AUTHORITY.—Section 410 is
11 amended by striking paragraph (3) of subsection (a) and
12 all that follows and inserting the following:

13 “(b) PROGRAM-RELATED ELIGIBILITY REQUIRE-
14 MENTS.—To be eligible for a grant under this section, a
15 State shall—

16 “(1) carry out each of the programs and activi-
17 ties required under subsection (c);

18 “(2) comply with the additional requirements
19 set forth in subsection (d) with respect to such pro-
20 grams and activities; and

21 “(3) comply with any additional requirements
22 of the Secretary.

23 “(c) REQUIRED STATE PROGRAMS AND ACTIVI-
24 TIES.—For the purpose of subsection (b)(1), the required
25 State program and activities are as follows:

1 “(1) CHECK-POINT, SATURATION PATROL PRO-
2 GRAM.—A State program to conduct of a series of
3 high-visibility, Statewide law enforcement campaigns
4 in which law enforcement personnel monitor for im-
5 paired driving, either through use of check-points or
6 saturation patrols, on a nondiscriminatory, lawful
7 basis for the purpose of determining whether the op-
8 erators of the motor vehicles are driving while under
9 the influence of alcohol or controlled substances.

10 “(2) PROSECUTION AND ADJUDICATION PRO-
11 GRAM.—For grants made during fiscal years after
12 fiscal year 2004, a State prosecution and adjudica-
13 tion program under which—

14 “(A) judges and prosecutors are actively
15 encouraged to prosecute and adjudicate cases of
16 repeated commission of impaired driving of-
17 fenses by reducing the use of State diversion
18 programs, plea negotiation, or other means that
19 have the effect of avoiding or expunging a per-
20 manent record of impaired driving in such
21 cases; or

22 “(B) the courts in a majority of the judi-
23 cial jurisdictions of the State are monitored on
24 the courts’ adjudication of cases of impaired
25 driving offenses; and

1 “(C) annual Statewide outreach is provided
2 for judges and prosecutors on innovative ap-
3 proaches to the prosecution and adjudication of
4 cases of impaired driving offenses that have the
5 potential for significantly improving the pros-
6 ecution and adjudication of such cases.

7 “(3) IMPAIRED OPERATION INFORMATION SYS-
8 TEM.—A State impaired operation information sys-
9 tem that—

10 “(A) tracks drivers who are arrested or
11 convicted for violation of laws prohibiting im-
12 paired operation of motor vehicles;

13 “(B) includes information about each case
14 of an impaired driver beginning at the time of
15 arrest through case disposition, including infor-
16 mation about any trial, plea, plea agreement,
17 conviction or other disposition, sentencing or
18 other imposition of sanctions, and substance
19 abuse treatment;

20 “(C) provides—

21 “(i) accessibility to the information
22 for law enforcement personnel Statewide
23 and for United States law enforcement
24 personnel; and

1 “(ii) linkage for the sharing of the in-
2 formation and of the information in State
3 traffic record systems among jurisdictions
4 and appropriate agencies and offices of the
5 States; and

6 “(D) shares information with the National
7 Highway Traffic Safety Administration for
8 compilation and use for the tracking of im-
9 paired operators of motor vehicles who move
10 from State to State.

11 “(d) ADDITIONAL REQUIREMENTS.—For the pur-
12 poses of subsection (b)(2), the additional requirements
13 that are applicable to States with respect to programs and
14 activities described in subsection (c) are as follows:

15 “(1) CHECK-POINT, SATURATION PATROL PRO-
16 GRAM.—

17 “(A) COOPERATION WITH NATIONAL CAM-
18 PAIGNS.—Under the program for the conduct of
19 a series of high-visibility, Statewide law enforce-
20 ment campaigns under subsection (c)(1), a
21 State shall organize the campaigns in coopera-
22 tion with related national campaigns organized
23 by the National Highway Traffic Safety Admin-
24 istration, but may also initiate high-visibility,

1 Statewide law enforcement campaigns independ-
2 ently of the cooperative efforts.

3 “(B) DEMONSTRATED IMPROVEMENT.—

4 For each fiscal year, a State shall demonstrate
5 to the Secretary that the State and the political
6 subdivisions of the State that receive funds
7 under this section have increased, in the aggre-
8 gate, the total number of impaired driving law
9 enforcement activities, as described in sub-
10 section (c)(1) (or any other similar activity ap-
11 proved by the Secretary), initiated in such State
12 during the preceding fiscal year by a factor (not
13 less than 5 percent) that the Secretary deter-
14 mines meaningful for the State over the number
15 of such activities initiated in such State during
16 the next preceding fiscal year.

17 “(2) IMPAIRED OPERATION INFORMATION SYS-
18 TEM.—

19 “(A) IN GENERAL.—By not later than
20 June 30, 2004, the National Highway Traffic
21 Safety Administration shall issue guidelines to
22 the States specifying the types and formats of
23 data that States should collect relating to driv-
24 ers who are arrested or convicted for violation

1 of laws prohibiting the impaired operation of
2 motor vehicles.

3 “(B) REQUIREMENT FOR FISCAL YEARS
4 2004 AND 2005.—During fiscal years 2004 and
5 2005, each State shall—

6 “(i) assess the system used by the
7 State for tracking drivers who are arrested
8 or convicted for violation of laws prohib-
9 iting impaired operation of motor vehicles;

10 “(ii) identify ways to improve the sys-
11 tem, as well as to enhance the capability of
12 the system to provide information in co-
13 ordination with impaired operation infor-
14 mation systems of other States; and

15 “(iii) develop a strategic plan that
16 sets forth the actions to be taken and the
17 resources necessary to achieve the identi-
18 fied improvements and to enhance the ca-
19 pability for coordination with the systems
20 of other States.

21 “(C) REQUIREMENT FOR FISCAL YEARS
22 2006, 2007, AND 2008.—In each of fiscal years
23 2006, 2007, and 2008, each State shall dem-
24 onstrate to the Secretary that the State has
25 made substantial and meaningful progress in

1 improving the State's impaired operation infor-
2 mation system, and shall make public a report
3 on the progress of the information system.

4 “(D) REQUIREMENT FOR FISCAL YEAR
5 2009.—In fiscal year 2009, each State shall
6 demonstrate to the Secretary that the State's
7 impaired operation information system—

8 “(i) meets National Highway Traffic
9 Safety Administration standards for such
10 systems; and

11 “(ii) is fully operational.

12 “(e) USES OF GRANTS.—Grants made under this sec-
13 tion may be used for programs and activities described in
14 subsection (c) and to defray the following costs:

15 “(1) Labor costs, management costs, and equip-
16 ment procurement costs for the high-visibility, State-
17 wide law enforcement campaigns under subsection
18 (c)(1).

19 “(2) The costs of the training of law enforce-
20 ment personnel and the procurement of technology
21 and equipment, including video equipment and pas-
22 sive alcohol sensors, to counter directly impaired op-
23 eration of motor vehicles.

24 “(3) The costs of public awareness, advertising,
25 and educational campaigns that publicize use of so-

1 briety check points or increased law enforcement ef-
2 forts to counter impaired operation of motor vehi-
3 cles.

4 “(4) The costs of public awareness, advertising,
5 and educational campaigns that target impaired op-
6 eration of motor vehicles by persons under 34 years
7 of age.

8 “(5) The costs of the development and imple-
9 mentation of a State impaired operation information
10 system described in subsection (c)(3).

11 “(f) ADDITIONAL AUTHORITIES FOR CERTAIN AU-
12 THORIZED USES.—

13 “(1) COMBINATION OF GRANT PROCEEDS.—
14 Grant funds used for a campaign under subsection
15 (e)(3) may be combined, or expended in coordina-
16 tion, with proceeds of grants under section 402 of
17 this title.

18 “(2) COORDINATION OF USES.—Grant funds
19 used for a campaign under paragraph (3) or (4) of
20 subsection (e) may be expended—

21 “(A) in consultation with employers, col-
22 leges, and entities in the hospitality industry;
23 and

24 “(B) in coordination with sporting events
25 and concerts and other entertainment events.

1 “(g) FUNDING.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), grant funding under this section shall be
4 allocated among eligible States on the basis of the
5 apportionment formula that applies for apportion-
6 ments under section 402(c) of this title.

7 “(2) HIGH FATALITY-RATE STATES.—The
8 amount of the grant funds allocated under this sub-
9 section to each of the 10 States with the highest im-
10 paired driving-related fatality rate for the fiscal year
11 preceding the fiscal year of the allocation shall be
12 twice the amount that, except for this subparagraph,
13 would otherwise be allocated to the State under
14 paragraph (1).

15 “(h) USE OF FUNDS BY HIGH FATALITY-RATE
16 STATES.—

17 “(1) REQUIRED USES.—At least $\frac{1}{2}$ of the
18 amounts allocated to States under subsection (g)(2)
19 shall be used for the program described in sub-
20 section (c)(1).

21 “(2) REQUIREMENT FOR PLAN.—A State re-
22 ceiving an allocation of grant funds under subsection
23 (g)(2) shall expend those funds only after consulting
24 with the Administrator of the National Highway

1 Traffic Safety Administration regarding such ex-
2 penditures.

3 “(i) DEFINITIONS.—In this section:

4 “(1) IMPAIRED DRIVER.—The term ‘impaired
5 driver’ means a person who, while operating a motor
6 vehicle—

7 “(A) has a blood alcohol content of 0.08
8 percent or higher; or

9 “(B) is under the influence of a controlled
10 substance.

11 “(2) IMPAIRED OPERATION.—The term ‘im-
12 paired operation’, with respect to a motor vehicle,
13 means the operation of a motor vehicle by an im-
14 paired driver.

15 “(3) IMPAIRED DRIVING-RELATED FATALITY
16 RATE.—The term ‘impaired driving-related fatality
17 rate’ means the rate of the fatal accidents that in-
18 involve impaired drivers while operating motor vehi-
19 cles, as calculated in accordance with regulations
20 which the Administrator of the National Highway
21 Traffic Safety Administration shall prescribe.”.

22 **SEC. 110. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
23 **IMPROVEMENTS.**

24 (a) GRANT PROGRAM AUTHORITY.—Chapter 4 is
25 amended by adding at the end the following new section:

1 **“§412. State traffic safety information system im-**
2 **provements**

3 “(a) GRANT AUTHORITY.—Subject to the require-
4 ments of this section, the Secretary shall make grants of
5 financial assistance to eligible States to support the devel-
6 opment and implementation of effective programs by such
7 States to—

8 “(1) improve the timeliness, accuracy, complete-
9 ness, uniformity, integration, and accessibility of the
10 safety data of the State that is needed to identify
11 priorities for national, State, and local highway and
12 traffic safety programs;

13 “(2) evaluate the effectiveness of efforts to
14 make such improvements;

15 “(3) link the State data systems, including traf-
16 fic records, with other data systems within the
17 State, such as systems that contain medical, road-
18 way, and economic data; and

19 “(4) improve the compatibility and interoper-
20 ability of the data systems of the State with national
21 data systems and data systems of other States and
22 enhance the ability of the Secretary to observe and
23 analyze national trends in crash occurrences, rates,
24 outcomes, and circumstances.

25 “(b) FIRST-YEAR GRANTS.—

1 “(1) ELIGIBILITY.—To be eligible for a first-
2 year grant under this section in a fiscal year, a
3 State shall demonstrate to the satisfaction of the
4 Secretary that the State has—

5 “(A) established a highway safety data and
6 traffic records coordinating committee with a
7 multidisciplinary membership that includes,
8 among others, managers, collectors, and users
9 of traffic records and public health and injury
10 control data systems; and

11 “(B) developed a multiyear highway safety
12 data and traffic records system strategic plan
13 that addresses existing deficiencies in the
14 State’s highway safety data and traffic records
15 system, is approved by the highway safety data
16 and traffic records coordinating committee,
17 and—

18 “(i) specifies how existing deficiencies
19 in the State’s highway safety data and
20 traffic records system were identified;

21 “(ii) prioritizes, on the basis of the
22 identified highway safety data and traffic
23 records system deficiencies, the highway
24 safety data and traffic records system

1 needs and goals of the State, including the
2 activities under subsection (a);

3 “(iii) identifies performance-based
4 measures by which progress toward those
5 goals will be determined; and

6 “(iv) specifies how the grant funds
7 and any other funds of the State are to be
8 used to address needs and goals identified
9 in the multiyear plan.

10 “(2) GRANT AMOUNT.—Subject to subsection
11 (d)(3), the amount of a first-year grant to a State
12 for a fiscal year shall the higher of—

13 “(A) the amount determined by
14 multiplying—

15 “(i) the amount appropriated to carry
16 out this section for such fiscal year, by

17 “(ii) the ratio that the funds appor-
18 tioned to the State under section 402 of
19 this title for fiscal year 2003 bears to the
20 funds apportioned to all States under such
21 section for fiscal year 2003; or

22 “(B) \$300,000.

23 “(c) SUCCESSIVE YEAR GRANTS.—

24 “(1) ELIGIBILITY.—A State shall be eligible for
25 a grant under this subsection in a fiscal year suc-

1 ceeding the first fiscal year in which the State re-
2 ceives a grant under subsection (b) if the State, to
3 the satisfaction of the Secretary—

4 “(A) submits an updated multiyear plan
5 that meets the requirements of subsection
6 (b)(1)(B);

7 “(B) certifies that its highway safety data
8 and traffic records coordinating committee con-
9 tinues to operate and supports the multiyear
10 plan;

11 “(C) specifies how the grant funds and any
12 other funds of the State are to be used to ad-
13 dress needs and goals identified in the
14 multiyear plan;

15 “(D) demonstrates measurable progress to-
16 ward achieving the goals and objectives identi-
17 fied in the multiyear plan; and

18 “(E) includes a current report on the
19 progress in implementing the multiyear plan.

20 “(2) GRANT AMOUNT.—Subject to subsection
21 (d)(3), the amount of a year grant made to a State
22 for a fiscal year under this subsection shall equal the
23 higher of—

24 “(A) the amount determined by
25 multiplying—

1 “(i) the amount appropriated to carry
2 out this section for such fiscal year, by

3 “(ii) the ratio that the funds appor-
4 tioned to the State under section 402 of
5 this title for fiscal year 2003 bears to the
6 funds apportioned to all States under such
7 section for fiscal year 2003; or

8 “(B) \$500,000.

9 “(d) ADDITIONAL REQUIREMENTS AND LIMITA-
10 TIONS.—

11 “(1) MODEL DATA ELEMENTS.—The Secretary,
12 in consultation with States and other appropriate
13 parties, shall determine the model data elements
14 that are necessary for the observation and analysis
15 of State and national trends in occurrences, rates,
16 outcomes, and circumstances of motor vehicle traffic
17 accidents. In order to be eligible for a grant under
18 this section, a State shall submit to the Secretary a
19 certification that the State has adopted and uses
20 such model data elements.

21 “(2) MAINTENANCE OF EFFORT.—No grant
22 may be made to a State under this section in any
23 fiscal year unless the State enters into such agree-
24 ments with the Secretary as the Secretary may re-
25 quire to ensure that the State will maintain its ag-

1 aggregate expenditures from all other sources for high-
2 way safety data programs at or above the average
3 level of such expenditures maintained by such State
4 in the 2 fiscal years preceding the date of enactment
5 of the Highway Safety Grant Program Reauthoriza-
6 tion Act of 2003.

7 “(3) FEDERAL SHARE.—The Federal share of
8 the cost of adopting and implementing in a fiscal
9 year a State program described in subsection (a)
10 may not exceed 80 percent.

11 “(4) LIMITATION ON USE OF GRANT PRO-
12 CEEDS.—A State may use the proceeds of a grant
13 received under this section only to implement the
14 program described in subsection (a) for which the
15 grant is made.

16 “(e) APPLICABILITY OF CHAPTER 1.—Section 402(d)
17 of this title shall apply in the administration of this sec-
18 tion.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of chapter 4 is amended by adding at
21 the end the following new item:

 “412. State traffic safety information system improvements.”.

22 **SEC. 111. NHTSA ACCOUNTABILITY.**

23 (a) IN GENERAL.—Chapter 301 is amended by add-
24 ing at the end the following:

1 **“§ 30106. Agency accountability**

2 “(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—
3 At least once every 3 years the National Highway Traffic
4 Safety Administration shall conduct a review of each State
5 highway safety program. The review shall include a man-
6 agement evaluation of all grant programs partially or fully
7 funded under this title. The Administration shall provide
8 review-based recommendations on how each State may im-
9 prove the management and oversight of its grant activities
10 and may provide a management and oversight plan at the
11 request of any State.

12 “(b) RECOMMENDATIONS BEFORE SUBMISSION.—In
13 order to provide guidance to State highway safety agencies
14 on matters that should be addressed in the State highway
15 safety program goals and initiatives part of its highway
16 safety plan before the plan is submitted for review, the
17 Administration shall provide data-based recommendations
18 to each State at least 90 days before the date on which
19 the plan is to be submitted for review.

20 “(c) STATE PROGRAM REVIEW.—The Administration
21 shall—

22 “(1) conduct a program improvement review of
23 any State that does not substantially meet national
24 priority program areas specified in its highway safe-
25 ty plan during any 3-year period; and

1 “(2) provide technical assistance and safety
2 program recommendations to the State for any goal
3 not achieved.

4 “(d) REGIONAL ADMINISTRATOR HARMONIZATION.—
5 The Administration and the Inspector General of the De-
6 partment of Transportation shall undertake a State grant
7 administrative review of the practices and procedures of
8 the management reviews and program reviews conducted
9 by Administration regional offices and formulate a report
10 of best practices to be completed within 180 days after
11 the date of enactment of the Surface Transportation Safe-
12 ty Reauthorization Act of 2003.

13 “(e) BEST PRACTICES GUIDELINES.—

14 “(1) UNIFORM GUIDELINES.—The Administra-
15 tion shall issue uniform management review and
16 program review guidelines based on the report under
17 subsection (d). Each regional office shall use the
18 guidelines in executing its State administrative re-
19 view duties.

20 “(2) PUBLICATION.—The Administration shall
21 make the following documents available via the
22 Internet upon their completion:

23 “(A) The Administration’s management re-
24 view and program review guidelines.

25 “(B) State highway safety plans.

1 “(C) State annual accomplishment reports.

2 “(D) The Administration’s State manage-
3 ment reviews.

4 “(E) The Administration’s State program
5 improvement plans.

6 “(3) REPORTS TO STATE HIGHWAY SAFETY
7 AGENCIES.—The Administration may not make a
8 plan, report, or review available under paragraph (2)
9 that is directed to a State highway safety agency
10 until after it has been submitted to that agency.”.

11 (b) CONFORMING AMENDMENT.—The chapter
12 analysis for chapter 301 is amended by inserting after the
13 item relating to section 30105 the following:

“§ 30106. Agency accountability”.

14 **SEC. 112. EFFECTIVE DATES.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), this subtitle and the amendments made by this sub-
17 title shall take effect on October 1, 2003.

18 (b) EXCEPTION.—Section 112 shall take effect
19 on the date of the enactment of this Act.

20 SUBTITLE B—SPECIFIC VEHICLE SAFETY-RELATED
21 RULINGS

22 **SEC. 151. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

23 Except as otherwise specifically provided, whenever in
24 this subtitle an amendment is expressed in terms of an
25 amendment to a section or other provision of law, the ref-

1 erence shall be considered to be made to a section or other
2 provision of title 49, United States Code.

3 **SEC. 152. LOAD CAPACITY LABELING FOR LIGHT TRUCKS.**

4 (a) IN GENERAL.—Chapter 323 is amended by add-
5 ing at the end the following:

6 **“§ 32310. Load capacity of light trucks**

7 “Each manufacturer of a new light duty truck manu-
8 factured after September 30, 2005, and distributed in
9 commerce for sale in the United States, shall establish
10 each year for each model year and cause to be attached
11 in a prominent place on each of those trucks at least 1
12 label containing a statement of the vehicle’s maximum
13 weight carrying capacity.”.

14 (b) RULEMAKING DEADLINES.—The Secretary of
15 Transportation shall issue—

16 (1) a notice of a proposed rulemaking to estab-
17 lish a methodology for computing the maximum
18 weight carrying capacity of light duty trucks re-
19 quired to be labeled under section 32310 of title 49,
20 United States Code, not later than June 30, 2004;
21 and

22 (2) a final rule under that section not later
23 than June 30, 2005.

24 (c) CONFORMING AMENDMENT.—The chapter anal-
25 ysis for chapter 301 of title 49, United States Code, is

1 amended by inserting after the item relating to section
2 30127 the following:

“32310. Load capacity of light trucks”.

3 **SEC. 153. VEHICLE CRASH EJECTION PREVENTION.**

4 (a) IN GENERAL.—Subchapter I of chapter 301 is
5 amended by adding at the end the following:

6 **“§ 30128. Vehicle accident ejection protection**

7 “(a) IN GENERAL.—The Secretary shall issue a rule
8 to reduce complete and partial ejection from passenger
9 motor vehicles with a gross vehicle weight rating of up
10 to 10,000 pounds that are involved in accidents that
11 present a risk of occupant ejection. The reduction in such
12 ejections shall be based on the combined ejection-mitiga-
13 tion capabilities of safety technologies, including advanced
14 side glazing, side curtains, and side impact air bags.

15 “(b) DOOR LOCK AND RETENTION STANDARD.—The
16 Secretary shall issue a rule to require manufacturers of
17 new passenger motor vehicles distributed in commerce for
18 sale in the United States to make such modifications to
19 door locks, door latches, and retention components of
20 doors in such vehicles as the Secretary determines to be
21 necessary to prevent occupant ejection in vehicle acci-
22 dents.”.

23 (b) RULEMAKING DEADLINES.—

24 (1) RULEMAKING.—The Secretary of Transpor-
25 tation shall issue—

1 (A) a notice of a proposed rulemaking
2 under section 30128 of title 49, United States
3 Code, not later than June 30, 2005; and

4 (B) a final rule under that section not
5 later than June 30, 2006.

6 (2) EFFECTIVE DATE OF REQUIREMENTS.—
7 Any requirement imposed under the final rule issued
8 under paragraph (1) shall become fully effective no
9 later than December 31, 2008.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of
12 Transportation \$500,000 for each of fiscal years 2004 and
13 2005 to promulgate rules under section 30128 of title 49,
14 United States Code.

15 (d) CONFORMING AMENDMENT.—The chapter anal-
16 ysis for chapter 301 of title 49, United States Code, is
17 amended by inserting after the item relating to section
18 30127 the following:

“30128. Vehicle accident ejection protection”.

19 **SEC. 154. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY**
20 **STUDY.**

21 (a) IN GENERAL.—The Administrator of the Na-
22 tional Highway Transportation Safety Administration
23 shall conduct a study of effective methods for reducing the
24 incidence of injury and death outside of parked vehicles
25 attributable to movement of the parked vehicle. The Ad-

1 ministrator shall complete the study within 1 year after
2 the date of enactment of this Act and report its findings
3 to the Senate Committee on Commerce, Science, and
4 Transportation and the House of Representatives Com-
5 mittee on Energy and Commerce no later than December
6 31, 2005.

7 (b) SPECIFIC ISSUES TO BE COVERED.—The study
8 required by subsection (a) shall—

9 (1) include an analysis of backover prevention
10 technology;

11 (2) identify, evaluate, and compare the available
12 technologies for detecting people or objects behind a
13 motor vehicle for their accuracy, effectiveness, cost,
14 and feasibility for installation;

15 (3) provide an estimate of cost savings that
16 would result from widespread use of backover pre-
17 vention devices and technologies, including savings
18 attributable to the prevention of—

19 (A) injuries and fatalities; and

20 (B) damage to bumpers and other car
21 parts and damage to other objects.

22 **SEC. 156. AGGRESSIVITY AND INCOMPATIBILITY REDUC-**
23 **TION STANDARD.**

24 (a) IN GENERAL.—Chapter 301 is amended by add-
25 ing at the end the following:

1 **“§ 30129. Vehicle compatibility and aggressivity re-**
2 **duction standard**

3 “(a) In General.—The Secretary of Transportation,
4 through the National Highway Traffic Safety Administra-
5 tion, shall issue safety regulations to reduce vehicle incom-
6 patibility and aggressivity for passenger vehicles and non-
7 passenger vehicles. The regulations shall modulate bumper
8 height, weight, and any other characteristics necessary to
9 ensure better management of crash forces in multiple vehi-
10 cle frontal and side impact crashes between different
11 types, sizes, and weights of passenger vehicles with a gross
12 vehicle weight of 10,000 pounds or less in order to de-
13 crease occupant deaths and injuries.

14 “(b) STANDARDS.—The Secretary, through the Ad-
15 ministration, shall develop a standard rating metric to
16 evaluate incompatibility and aggressivity among passenger
17 motor vehicles.

18 “(c) PUBLIC INFORMATION.—The Secretary, through
19 the Administration, shall create a public information pro-
20 gram that includes vehicle rating based on risks to occu-
21 pants, risks to other motorists, and combined risks by ve-
22 hicle make and model.”.

23 (b) RULEMAKING DEADLINES.—

24 (1) RULEMAKING.—The Secretary of Transpor-
25 tation shall issue—

1 (A) a notice of a proposed rulemaking
2 under section 30129 of title 49, United States
3 Code, not later than January 31, 2006; and

4 (B) a final rule under that section not
5 later than December 31, 2007.

6 (2) EFFECTIVE DATE OF REQUIREMENTS.—

7 Any requirement imposed under the final rule issued
8 under paragraph (1) shall become fully effective no
9 later than December 31, 2009.

10 (c) CONFORMING AMENDMENT.—The chapter anal-
11 ysis for chapter 301 of title 49, United States Code, is
12 amended by inserting after the item relating to section
13 30128 the following:

“30129. Vehicle compatibility and aggressivity reduction standard”.

14 **SEC. 157. IMPROVED CRASHWORTHINESS.**

15 (a) IMPROVED CRASHWORTHINESS.—Subchapter II
16 of chapter 301 of title 49, United States Code, is amended
17 by adding at the end the following:

18 **“§ 30130. Improved crashworthiness of passenger**
19 **motor vehicles**

20 “(a) ROLLOVERS.—The Secretary of Transportation,
21 through the National Highway Traffic Safety Administra-
22 tion, shall prescribe a motor vehicle safety standard under
23 this chapter for rollover crashworthiness standards for
24 passenger motor vehicles with a gross vehicle weight of
25 not more than 10,000 pounds, using a roof strength

1 standard based on dynamic tests that realistically dupli-
2 cate the actual forces transmitted to a motor vehicle dur-
3 ing an on-roof rollover crash, that includes—

4 “(1) dynamic roof crush standards;

5 “(2) improved seat structure and safety belt de-
6 sign;

7 “(3) side impact head protection airbags; and

8 “(4) roof injury protection measures.

9 “(b) FRONTAL IMPACT STANDARDS AND CRASH
10 TESTS.—

11 “(1) IN GENERAL.—The Secretary, through the
12 Administration, shall prescribe a motor vehicle safe-
13 ty standard under this chapter to improve the pro-
14 tection afforded to occupants of all sizes in frontal
15 impact crashes involving passenger motor vehicles
16 with a gross vehicle weight of not more than 10,000
17 pounds.

18 “(2) TEST METHODOLOGY.—In prescribing the
19 standard under paragraph (1), the Secretary shall—

20 “(A) evaluate additional test barriers and
21 measurements of occupant head impact and
22 neck injuries; and

23 “(B) review frontal impact criteria, includ-
24 ing consideration of criteria established by the
25 Insurance Institute for Highway Safety.

1 “(c) SIDE IMPACT STANDARDS AND CRASH TESTS.—

2 “(1) IN GENERAL.—The Secretary, through the
3 Administration, shall prescribe a motor vehicle safe-
4 ty standard under this chapter to improve the pro-
5 tection afforded to occupants of all sizes in side im-
6 pact crashes involving passenger motor vehicles with
7 a gross vehicle weight of not more than 10,000
8 pounds.

9 “(2) TEST METHODOLOGY.—In prescribing the
10 standard under paragraph (1), the Secretary shall—

11 “(A) evaluate additional test barriers and
12 measurements of occupant head impact and
13 neck injuries;

14 “(C) consider the need for additional and
15 new crash test dummies that represent the full
16 range of occupant sizes and weights; and

17 “(D) review side impact criteria, including
18 consideration of criteria established by the In-
19 surance Institute for Highway Safety.”

20 (b) RULEMAKING DEADLINES.—

21 (1) RULEMAKING.—The Secretary of Transpor-
22 tation shall—

23 (A) issue a notice of a proposed rule-
24 making under section 30130 of title 49, United

1 States Code, not later than March 31, 2004;
2 and

3 (B) issue a final rule not later than March
4 31, 2006..

5 (2) EFFECTIVE DATE OF REQUIREMENTS.—The
6 Secretary shall phase-in any requirements imposed
7 under a final rule issued under paragraph (1) begin-
8 ning no sooner than 1 year, for a rule under section
9 30130(a), and no sooner than 2 years, for a rule
10 under section 30130(b) or (c). No sooner than 4
11 years after the date of publication of the final rule
12 and no later than 54 months after that date, the
13 Secretary shall begin a phase-in of the test proce-
14 dures and guidelines for measuring injury risk to the
15 abdomen and thorax of occupants of vehicles to
16 which the rule applies.

17 (c) CONFORMING AMENDMENT.—The chapter anal-
18 ysis for chapter 301 of title 49, United States Code, is
19 amended by inserting after the item relating to section
20 30127 the following:

“30130. Improved crashworthiness of passenger motor vehicles”.

21 **SEC. 159. 15-PASSENGER VANS.**

22 (a) IN GENERAL.—The Secretary of Transportation
23 shall initiate a rulemaking and issue a final regulation no
24 later than September 31, 2004, to include 15-passenger
25 vans and passenger motor vehicles with a gross vehicle

1 weight of up to 10,000 pounds in the National Highway
2 Traffic Safety Administration's dynamic rollover testing
3 program and require such passenger motor vehicles, in-
4 cluding 15 passenger vans with a gross vehicle weight of
5 up to 10,000 pounds to comply with all existing and pro-
6 spective Federal Motor Vehicle Safety Standards for occu-
7 pant protection and vehicle crash avoidance.

8 (b) NEW CAR ASSESSMENT PROGRAM.—The Sec-
9 retary shall initiate a rulemaking and issue a final regula-
10 tion no later than September 31, 2004, to include pas-
11 senger motor vehicles with a gross vehicle weight of up
12 to 10,000 pounds, including 15-passenger vans under var-
13 ious load conditions, in the Administration's New Car As-
14 sessment Program rollover resistance program.

15 (c) FINAL FMCSA RULE MANDATED.—The Federal
16 Motor Carrier Safety Administration shall issue and im-
17 plement a final rule requiring the application of Federal
18 motor carrier safety regulations to 15-passenger vans used
19 for commercial purposes.

20 (d) VEHICLE CONTROL TECHNOLOGY FOR 15-PAS-
21 Senger Vans.—The National Highway Traffic Safety
22 Administration shall evaluate, in conjunction with manu-
23 facturers, and test the potential of technological systems,
24 particularly electronic stability control systems and rear-
25 view mirror-based rollover warning systems, to assist driv-

1 ers in maintaining control of 15-passenger vans with a
2 gross vehicle weight of up to 10,000 pounds.

3 **SEC. 160. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated to the Sec-
5 retary of Transportation to carry out this subtitle and sec-
6 tions 30128, 30129, 30130, 30131, and 30171 of title 49,
7 United States Code—

8 (1) \$130,500,000 for fiscal year 2004;

9 (1) \$133,500,000 for fiscal year 2005;

10 (1) \$133,600,000 for fiscal year 2006;

11 (1) \$134,500,000 for fiscal year 2007;

12 (1) \$138,000,000 for fiscal year 2008; and

13 (1) \$141,000,000 for fiscal year 2009.

14 **TITLE II—MOTOR CARRIER**
15 **SAFETY AND UNIFIED CAR-**
16 **RIER REGISTRATION**

17 **SEC. 201. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED**
18 **STATES CODE**

19 (a) SHORT TITLE.—This title may be cited as the
20 “Motor Carrier Safety Reauthorization Act of 2003”.

21 (b) AMENDMENT OF TITLE 49, UNITED STATES
22 CODE.—Except as otherwise specifically provided, when-
23 ever in this title an amendment is expressed in terms of
24 an amendment to a section or other provision of law, the

1 reference shall be considered to be made to a section or
2 other provision of title 49, United States Code.

3 **SEC. 202. REQUIRED COMPLETION OF OVERDUE REPORTS,**
4 **STUDIES, AND RULEMAKINGS.**

5 (a) REQUIREMENT FOR COMPLETION.—By no later
6 than 36 months after the date of enactment of this Act,
7 the Secretary of Transportation shall complete all reports,
8 studies, and rulemaking proceedings to issue regulations
9 which Congress directed the Secretary to complete in pre-
10 vious laws and which are not yet completed, including—

11 (1) Commercial Vehicle Driver Biometric Iden-
12 tifier, section 9105, Truck and Bus Safety and Reg-
13 ulatory Reform Act of 1988;

14 (2) General Transportation of HAZMAT, sec-
15 tion 8(b), Hazardous Materials Transportation Uni-
16 form Safety Act of 1990;

17 (3) Nationally Uniform System of Permits for
18 Interstate Motor Carrier Transport of HAZMAT,
19 section 22, Hazardous Materials Transportation
20 Uniform Safety Act of 1990;

21 (4) Training for Entry-Level Drivers of Com-
22 mercial Motor Vehicles, section 4007 (a), Intermodal
23 Surface Transportation Efficiency Act of 1991;

24 (5) Minimum Training Requirements for Oper-
25 ators and for Training Instructors of Multiple Trail-

1 er Combination Vehicles, section 4007(b)(2), Inter-
2 modal Surface Transportation Efficiency Act of
3 1991;

4 (6) Railroad-Highway Grade Crossing Safety,
5 section 112, Hazardous Materials Transportation
6 Authorization Act of 1994;

7 (7) Safety Performance History of New Driv-
8 ers, section 114, Hazardous Materials Transpor-
9 tation Authorization Act of 1994;

10 (8) Motor Carrier Replacement Information
11 and Registration System, section 103, Interstate
12 Commerce Commission Termination Act of 1995;

13 (9) General Jurisdiction Over Freight For-
14 warder Service, section 13531, Interstate Commerce
15 Commission Termination Act of 1995;

16 (10) Waivers, Exemptions, and Pilot Programs,
17 section 4007, Transportation Equity Act for the
18 Twenty-First Century;

19 (11) Safety Performance History of New Driv-
20 ers, section 4014, Transportation Equity Act for the
21 Twenty-First Century;

22 (12) Performance-based CDL Testing, section
23 4019, Transportation Equity Act for the Twenty-
24 First Century;

1 (13) Post-Accident Alcohol Testing, section
2 4020, Transportation Equity Act for the Twenty-
3 First Century;

4 (14) Improved Flow of Driver History Pilot
5 Program, section 4022, Transportation Equity Act
6 for the Twenty-First Century;

7 (15) Employee Protections, section 4023,
8 Transportation Equity Act for the Twenty-First
9 Century;

10 (16) Improved Interstate School Bus Safety,
11 section 4024, Transportation Equity Act for the
12 Twenty-First Century;

13 (17) DOT Implementation Plan, section 4026,
14 Transportation Equity Act for the Twenty-First
15 Century;

16 (18) Effects of MCSAP Grant Reductions, sec-
17 tion 4032, Transportation Equity Act for the Twen-
18 ty-First Century;

19 (19) Study of Whether Compliance with section
20 1252.209-70 of Title 48 is Sufficient to Avoid Con-
21 flicts of Interest in Contracts for Research, section
22 101, Motor Carrier Safety Improvement Act of
23 1999;

1 (20) Federal Motor Carrier Safety Administra-
2 tion 2010 Strategy, Sec. 104, Motor Carrier Safety
3 Improvement Act of 1999;

4 (21) New Motor Carrier Entrant Requirements,
5 section 210, Motor Carrier Safety Improvement Act
6 of 1999;

7 (22) Certified Motor Carrier Safety Auditors,
8 section 211, Motor Carrier Safety Improvement Act
9 of 1999;

10 (23) Commercial Van Operations Transporting
11 Nine to Fifteen Passengers, section 212, Motor Car-
12 rier Safety Improvement Act of 1999;

13 (24) Medical Certificate, section 215, Motor
14 Carrier Safety Improvement Act of 1999;

15 (25) Report on Any Pilots Undertaken to De-
16 velop Innovative Methods of Improving Motor Car-
17 rier Compliance with Traffic Laws, section 220,
18 Motor Carrier Safety Improvement Act of 1999;

19 (26) Status Report on the Implementation of
20 Electronic Transmission of Data State-to-State on
21 Convictions for All Motor Vehicle Control Law Vio-
22 lations for CDL Holders, section 220, Motor Carrier
23 Safety Improvement Act of 1999;

24 (27) Assessment of Civil Penalties, section 222,
25 Motor Carrier Safety Improvement Act of 1999;

1 (28) Status Report on the Department of
2 Transportation's Goal of Reducing Motor Carrier
3 Fatalities by 50 Percent by the Year 2009, section
4 223, Motor Carrier Safety Improvement Act of
5 1999;

6 (29) Truck Crash Causation Study, section
7 224, Motor Carrier Safety Improvement Act of
8 1999;

9 (30) Drug Test Results Study, section 226,
10 Motor Carrier Safety Improvement Act of 1999.

11 (b) FINAL RULE REQUIRED.—Unless specifically
12 permitted by law, rulemaking proceedings shall be consid-
13 ered completed for purposes of this section only when the
14 Secretary has issued a final rule and the docket for the
15 rulemaking proceeding is closed.

16 (c) SCHEDULE FOR COMPLETION.—No fewer than
17 one-third of the reports, studies, and rulemaking pro-
18 ceedings in subsection (a) shall be completed every 12
19 months for 24 months following the enactment of this Act,
20 and the remaining proceedings in subsection (a) shall be
21 completed within 36 months after the date of enactment
22 of this Act.

23 (d) FAILURE TO COMPLY.—Congress shall reallocate
24 \$3,000,000 annually from administrative expenses of the
25 Federal Motor Carrier Safety Administration to the States

1 to conduct additional compliance reviews under section
2 31102 for each 12-month period in which the Secretary
3 fails to complete the required number of reports, studies,
4 and rulemaking proceedings. The \$3,000,000 reallocation
5 shall accrue for each 12-month period in which the Sec-
6 retary fails to meet the schedule for completion required
7 in subsection (c).

8 (e) AMENDMENTS TO THE LISTED REPORTS, STUD-
9 IES, AND RULEMAKING PROCEEDINGS.—In addition to
10 completing the reports, studies and rulemaking pro-
11 ceedings listed in subsection (c), the Secretary shall—

12 (1) amend the Interim Final Rule addressing New
13 Motor Carrier Entrant Requirements to require that
14 a safety audit be immediately converted to a compli-
15 ance review and appropriate enforcement actions be
16 taken if the safety audit discloses acute safety viola-
17 tions by the new entrant; and

18 (2) eliminate a proposed provision in the rulemaking
19 proceeding addressing Commercial Van Operations
20 Transporting Nine to Fifteen Passengers which ex-
21 empts commercial van operations that operate within
22 a 75-mile radius.

23 (f) COMPLETION OF NEW RULEMAKING PRO-
24 CEEDINGS.—Nothing in this section delays or
25 changes the deadlines specified for new reports,

1 studies, or rulemaking mandates contained in this
2 Act.

3 (g) REPORT OF OTHER AGENCY ACTIONS.—Within
4 12 months after the date of enactment of this Act,
5 the Secretary shall submit to the Senate Committee
6 on Commerce, Science, and Transportation and to
7 the House Committee on Transportation and Infra-
8 structure a report on the status of the following
9 projects:

10 (1) Rescinding the current regulation which pro-
11 hibits truck and bus drivers from viewing television
12 and monitor screens while operating commercial ve-
13 hicles.

14 (2) Incorporating Out-Of-Service Criteria regula-
15 tions enforced by the Federal Motor Carrier Safety
16 Administration.

17 (3) Revision of the safety fitness rating system of
18 motor carriers.

19 (4) Amendment of Federal Motor Carrier Safety Ad-
20 ministration rules of practice for conducting motor
21 carrier administrative proceedings, investigations,
22 disqualifications, and for issuing penalties.

23 (5) Requiring commercial drivers to have a sufficient
24 functional speaking and reading comprehension of
25 the English language.

1 (6) Inspection, repair and maintenance of inter-
2 modal container chassis and trailers.

3 **SEC. 203. CONTRACT AUTHORITY.**

4 Authorizations from the Highway Trust Fund (other
5 than the Mass Transit Account) to carry out this title
6 shall be available for obligation on the date of their appor-
7 tionment or allocation or on October 1 of the fiscal year
8 for which they are authorized, whichever occurs first. Ap-
9 proval by the Secretary of a grant with funds made avail-
10 able under this title imposes upon the United States Gov-
11 ernment a contractual obligation for payment of the Gov-
12 ernment's share of costs incurred in carrying out the ob-
13 jectives of the grant.

14 **SUBTITLE A—MOTOR CARRIER SAFETY**

15 **SEC. 221. MINIMUM GUARANTEE.**

16 There are authorized to be appropriated from the
17 Highway Trust Fund (other than the Mass Transit Ac-
18 count) not less than 1.21 percent of the total amounts
19 made available in any fiscal year from the Highway Trust
20 Fund for purposes of this title.

21 **SEC. 222. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) **ADMINISTRATIVE EXPENSES.**—Section 31104 is
23 amended by adding at the end the following:

24 “(i) **ADMINISTRATIVE EXPENSES.**—

1 “(1) There are authorized to be appropriated
2 from the Highway Trust Fund (other than the Mass
3 Transit Account) for the Secretary of Transpor-
4 tation to pay administrative expenses of the Federal
5 Motor Carrier Safety Administration—

6 “(A) \$227,900,000 for fiscal year 2004;

7 “(B) \$231,200,000 for fiscal year 2005;

8 “(C) \$236,400,000 for fiscal year 2006;

9 “(D) \$242,500,000 for fiscal year 2007;

10 “(E) \$247,600,000 for fiscal year 2008;

11 and

12 “(F) \$253,500,000 for fiscal year 2009.

13 “(2) The funds authorized by this subsection
14 shall be used for personnel costs; administrative in-
15 frastructure; rent; information technology; programs
16 for research and technology, information manage-
17 ment, regulatory development (including a medical
18 review board and rules for medical examiners), per-
19 formance and registration information system man-
20 agement, and outreach and education; other oper-
21 ating expenses and similar matters; and such other
22 expenses as may from time to time become necessary
23 to implement statutory mandates not funded from
24 other sources.

1 “(3) The amounts made available under this
2 section shall remain available until expended.”.

3 (b) AMENDMENT TO APPORTIONMENT PROVISION OF
4 TITLE 23.—Section 104 of title 23, United States Code,
5 is amended—

6 (1) by striking “exceed—” and so much of sub-
7 paragraph (A) as precedes clause (i) and inserting
8 “exceed 1 $\frac{1}{6}$ percent of all sums so made available,
9 as the Secretary determines necessary—”;

10 (2) by redesignating clause (i) and (ii) of sub-
11 paragraph (A) as subparagraphs (A) and (B), and
12 indenting such clauses, as so redesignated, 2 em
13 spaces; and

14 (3) by striking “system; and” in subparagraph
15 (B) as so redesignated, and all that follows through
16 “research.” and inserting “system.”.

17 (c) GRANT PROGRAMS.—There are authorized to be
18 appropriated from the Highway Trust Fund (other than
19 the Mass Transit Account) for the following Federal
20 Motor Carrier Safety Administration programs:

21 (1) Border enforcement grants under section
22 31107 of title 49, United States Code—

23 (A) \$ 32,000,000 for fiscal year 2004;

24 (B) \$ 33,000,000 for fiscal year 2005;

25 (C) \$ 33,000,000 for fiscal year 2006;

- 1 (D) \$ 34,000,000 for fiscal year 2007;
2 (E) \$ 35,000,000 for fiscal year 2008; and
3 (F) \$ 36,000,000 for fiscal year 2009.

4 (2) Performance and registration information
5 system management grant program under 31109 of
6 title 49, United States Code—

- 7 (A) \$4,000,000 for fiscal year 2004;
8 (B) \$4,000,000 for fiscal year 2005;
9 (C) \$4,000,000 for fiscal year 2006;
10 (D) \$4,000,000 for fiscal year 2007;
11 (E) \$4,000,000 for fiscal year 2008; and
12 (F) \$4,000,000 for fiscal year 2009.

13 (3) Commercial driver's license and driver im-
14 provement program grants under section 31318 of
15 title 49, United States Code—

- 16 (A) \$22,000,000 for fiscal year 2004;
17 (B) \$22,000,000 for fiscal year 2005;
18 (C) \$23,000,000 for fiscal year 2006;
19 (D) \$23,000,000 for fiscal year 2007;
20 (E) \$24,000,000 for fiscal year 2008; and
21 (F) \$25,000,000 for fiscal year 2009.

22 (d) PERIOD OF AVAILABILITY.—The amounts made
23 available under subsection (c) of this section shall remain
24 available until expended.

1 **SEC. 223. MOTOR CARRIER SAFETY GRANTS.**

2 (a) MOTOR CARRIER SAFETY ASSISTANCE PRO-
3 GRAM.—

4 (1) Section 31102 is amended by—

5 (A) striking “activities by fiscal year
6 2000;” in subsection (b)(1)(A) and inserting
7 “activities for motor carriers of passengers and
8 motor carriers of freight;”;

9 (B) striking “and” after the semicolon in
10 subsection (b)(1)(S);

11 (C) adding at the end of subsection (b)(1)
12 the following new subparagraphs:

13 “(U) ensures that inspections of motor carriers
14 of passengers are conducted at stations, terminals,
15 or border crossings, except in the case of an immi-
16 nent or obvious safety hazard;

17 “(V) provides that the State will include in the
18 training manual for the licensing examination to
19 drive a non-commercial motor vehicle and a commer-
20 cial motor vehicle, information on best practices for
21 driving safely in the vicinity of commercial motor ve-
22 hicles and in the vicinity of non-commercial vehicles,
23 respectively; and

24 “(W) provides that the State will enforce the
25 registration requirements of section 13902 by plac-
26 ing administratively out of service any vehicle discov-

1 ered to be operating without registration or beyond
2 the scope of its registration.”; and

3 (D) by striking subsection (c) and insert-
4 ing the following new subsection:

5 “(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—

6 A State may use amounts received under a grant under
7 subsection (a) of this section for the following activities:

8 “(1) If the activities are carried out in conjunc-
9 tion with an appropriate inspection of the commer-
10 cial motor vehicle to enforce Government or State
11 commercial motor vehicle safety regulations—

12 “(A) enforcement of commercial motor ve-
13 hicle size and weight limitations at locations
14 other than fixed weight facilities, at specific lo-
15 cations such as steep grades or mountainous
16 terrains where the weight of a commercial
17 motor vehicle can significantly affect the safe
18 operation of the vehicle, or at ports where inter-
19 modal shipping containers enter and leave the
20 United States; and

21 “(B) detection of the unlawful presence of
22 a controlled substance (as defined under section
23 102 of the Comprehensive Drug Abuse Preven-
24 tion and Control Act of 1970 (21 U.S.C. 802))
25 in a commercial motor vehicle or on the person

1 of any occupant (including the operator) of the
2 vehicle.

3 “(2) Documented enforcement of State traffic
4 laws and regulations designed to promote the safe
5 operation of commercial motor vehicles, including
6 documented enforcement of such laws and regula-
7 tions against non-commercial motor vehicles when
8 necessary to promote the safe operation of commer-
9 cial motor vehicles.”.

10 (2) Section 31103(b) is amended—

11 (1) by inserting “(1)” after “ACTIVITIES.—”;
12 and

13 (2) by adding at the end the following:

14 “(2) NEW ENTRANT MOTOR CARRIER AUDIT
15 FUNDS.—From the amounts designated under sec-
16 tion 31104(f)(4), the Secretary may allocate new en-
17 trant motor carrier audit funds to States and local
18 governments without requiring a matching contribu-
19 tion from such States or local governments.”.

20 (3) Section 31104(a) is amended to read as fol-
21 lows:

22 “(a) IN GENERAL.—There are authorized to be ap-
23 propriated from the Highway Trust Fund (other than the
24 Mass Transit Account) to carry out section 31102:

1 “(1) Not more than \$186,100,000 for fiscal
2 year 2004.

3 “(2) Not more than \$189,800,000 for fiscal
4 year 2005.

5 “(3) Not more than \$193,600,000 for fiscal
6 year 2006.

7 “(4) Not more than \$197,500,000 for fiscal
8 year 2007.

9 “(5) Not more than \$201,400,000 for fiscal
10 year 2008.

11 “(6) Not more than \$205,500,000 for fiscal
12 year 2009.”.

13 (4) Section 31104(f) is amended by striking
14 paragraph (2) and inserting the following:

15 “(2) HIGH-PRIORITY ACTIVITIES.—The Sec-
16 retary may designate up to 5 percent of amounts
17 available for allocation under paragraph (1) for
18 States, local governments, and organizations rep-
19 resenting government agencies or officials for car-
20 rying out high priority activities and projects that
21 improve commercial motor vehicle safety and compli-
22 ance with commercial motor vehicle safety regula-
23 tions, including activities and projects that are na-
24 tional in scope, increase public awareness and edu-
25 cation, or demonstrate new technologies. The

1 amounts designated under this paragraph shall be
2 allocated by the Secretary to State agencies, local
3 governments, and organizations representing govern-
4 ment agencies or officials that use and train quali-
5 fied officers and employees in coordination with
6 State motor vehicle safety agencies. At least 80 per-
7 cent of the amounts designated under this para-
8 graph shall be awarded to State agencies and local
9 government agencies.

10 “(3) SAFETY-PERFORMANCE INCENTIVE PRO-
11 GRAMS.—The Secretary may designate up to 10 per-
12 cent of the amounts available for allocation under
13 paragraph (1) for safety performance incentive pro-
14 grams for States. The Secretary shall establish safe-
15 ty performance criteria to be used to distribute in-
16 centive program funds. Such criteria shall include,
17 at a minimum, reduction in the number and rate of
18 fatal accidents involving commercial motor vehicles.
19 Allocations under this paragraph do not require a
20 matching contribution from a State.

21 “(4) NEW ENTRANT AUDITS.—The Secretary
22 shall designate up to \$29,000,000 of the amounts
23 available for allocation under paragraph (1) for au-
24 dits of new entrant motor carriers conducted pursu-
25 ant to 31144(f). The Secretary may withhold such

1 funds from a State or local government that is un-
2 able to use government employees to conduct new
3 entrant motor carrier audits, and may instead utilize
4 the funds to conduct audits in those jurisdictions.”.

5 (b) GRANTS TO STATES FOR BORDER ENFORCE-
6 MENT.—Section 31107 is amended to read as follows:

7 **“§ 31107. Border enforcement grants**

8 “(a) GENERAL AUTHORITY.—From the funds au-
9 thorized by section 222(c)(1) of the Motor Carrier Safety
10 Reauthorization Act of 2003, the Secretary may make a
11 grant in a fiscal year to a State that shares a border with
12 another country for carrying out border commercial motor
13 vehicle safety programs and related enforcement activities
14 and projects.

15 “(b) MAINTENANCE OF EXPENDITURES.—The Sec-
16 retary may make a grant to a State under this section
17 only if the State agrees that the total expenditure of
18 amounts of the State and political subdivisions of the
19 State, exclusive of United States Government amounts, for
20 carrying out border commercial motor vehicle safety pro-
21 grams and related enforcement activities and projects will
22 be maintained at a level at least equal to the average level
23 of that expenditure by the State and political subdivisions
24 of the State for the last 2 State or Federal fiscal years
25 before October 1, 2003.”.

1 (c) GRANTS TO STATES FOR COMMERCIAL DRIVER'S
2 LICENSE IMPROVEMENTS.—Chapter 313 is amended by
3 adding at the end the following:

4 **“§31318. Grants for Commercial Driver's License**
5 **Program Improvements**

6 “(a) GENERAL AUTHORITY.—From the funds au-
7 thorized by section 222(c)(3) of the Motor Carrier Safety
8 Reauthorization Act of 2003, the Secretary may make a
9 grant to a State, except as otherwise provided in sub-
10 section (e), in a fiscal year to improve its implementation
11 of the commercial driver's license program, providing the
12 State is in substantial compliance with the requirements
13 of section 31311 and this section. The Secretary shall es-
14 tablish criteria for the distribution of grants and notify
15 the States annually of such criteria.

16 “(b) CONDITIONS.—Except as otherwise provided in
17 subsection (e), a State may use a grant under this section
18 only for expenses directly related to its commercial driver's
19 license program, including, but not limited to, computer
20 hardware and software, publications, testing, personnel,
21 training, and quality control. The grant may not be used
22 to rent, lease, or buy land or buildings. The Secretary may
23 allocate the funds appropriated for such grants in a fiscal
24 year among the eligible States whose applications for

1 grants have been approved, under criteria established by
2 the Secretary.

3 “(c) MAINTENANCE OF EXPENDITURES.—Except as
4 otherwise provided in subsection (e), the Secretary may
5 make a grant to a State under this section only if the
6 State agrees that the total expenditure of amounts of the
7 State and political subdivisions of the State, exclusive of
8 United States Government amounts, for the operation of
9 the commercial driver’s license program will be maintained
10 at a level at least equal to the average level of that expend-
11 iture by the State and political subdivisions of the State
12 for the last 2 fiscal years before October 1, 2003.

13 “(d) GOVERNMENT SHARE.—Except as otherwise
14 provided in subsection (e), the Secretary shall reimburse
15 a State, from a grant made under this section, an amount
16 that is not more than 80 percent of the costs incurred
17 by the State in a fiscal year in implementing the commer-
18 cial driver’s license improvements described in subsection
19 (b). In determining those costs, the Secretary shall include
20 in-kind contributions by the State.

21 “(e) HIGH-PRIORITY ACTIVITIES.—

22 “(1) The Secretary may make a grant to a
23 State agency, local government, or organization rep-
24 resenting government agencies or officials for the
25 full cost of research, development, demonstration

1 projects, public education, or other special activities
2 and projects relating to commercial driver licensing
3 and motor vehicle safety that are of benefit to all ju-
4 risdictions or designed to address national safety
5 concerns and circumstances.

6 “(2) The Secretary may designate up to 10 per-
7 cent of the amounts made available under section
8 222(c)(3) of the Motor Carrier Safety Reauthoriza-
9 tion Act of 2003 in a fiscal year for high-priority ac-
10 tivities under subsection (e)(1).

11 “(f) EMERGING ISSUES.—The Secretary may des-
12 ignate up to 10 percent of the amounts made available
13 under section 222(c)(3) of the Motor Carrier Safety Reau-
14 thorization Act of 2003 in a fiscal year for allocation to
15 a State agency, local government, or other person at the
16 discretion of the Secretary to address emerging issues re-
17 lating to commercial driver’s license improvements.

18 “(g) APPORTIONMENT.—Except as otherwise pro-
19 vided in subsections (e) and (f), all amounts available in
20 a fiscal year to carry out this section shall be apportioned
21 to States according to a formula prescribed by the Sec-
22 retary.

23 “(h) DEDUCTION FOR ADMINISTRATIVE EX-
24 PENSES.—On October 1 of each fiscal year or as soon
25 after that date as practicable, the Secretary may deduct,

1 from amounts made available under section 222(c)(3) of
2 the Motor Carrier Safety Reauthorization Act of 2003 for
3 that fiscal year, up to 0.75 percent of those amounts for
4 administrative expenses incurred in carrying out this sec-
5 tion in that fiscal year.”.

6 (d) NONCOMPLIANCE WITH CDL REQUIREMENTS.—
7 Section 31314 is amended by striking subsections (a) and
8 (b) and inserting the following new subsections:

9 “(a) FIRST FISCAL YEAR.—The Secretary of Trans-
10 portation shall withhold up to 5 percent of the amount
11 required to be apportioned to a State under section
12 104(b)(1), (3), and (4) of title 23 on the first day of the
13 fiscal year after the first fiscal year beginning after Sep-
14 tember 30, 1992, throughout which the State does not
15 comply substantially with a requirement of section
16 31311(a) of this title.

17 “(b) SECOND FISCAL YEAR.—The Secretary shall
18 withhold up to 10 percent of the amount required to be
19 apportioned to a State under section 104(b)(1), (3), and
20 (4) of title 23 on the first day of each fiscal year after
21 the second fiscal year beginning after September 30, 1992,
22 throughout which the State does not comply substantially
23 with a requirement of section 31311(a) of this title.”.

24 (e) CONFORMING AMENDMENTS.—

1 (1) The chapter analysis for chapter 311 is
2 amended—

3 (A) by striking the item relating to Subchapter
4 I, and inserting the following:

 “SUBCHAPTER I—GENERAL AUTHORITY AND STATE
 GRANTS”;

5

6 and

7 (B) by striking the item relating to section
8 31107, and inserting the following:

 “31107. Border enforcement grants.”.

9 (2) Subchapter I of chapter 311 is amended by strik-
10 ing the subchapter heading and inserting the following:

 “SUBCHAPTER I—GENERAL AUTHORITY AND STATE
 GRANTS”

11 (3) The chapter analysis for chapter 313 is
12 amended by inserting the following after the item re-
13 lating to section 31317:

 “31318. Grants for commercial driver’s license program improvements.”.

14 **SEC. 224. STUDY OF CDL PROGRAM.**

15 (a) IN GENERAL.—The Secretary of Transportation
16 shall convene a working group to study and address cur-
17 rent impediments and foreseeable challenges to the com-
18 mercial driver’s license program’s effectiveness and meas-
19 ures needed to realize the full safety potential of the com-
20 mercial driver’s license program. The working group shall
21 address such issues as State enforcement practices, oper-
22 ational procedures to detect and deter fraud, needed im-

1 provements for seamless information sharing between
2 States, effective methods for accurately sharing electronic
3 data between States, updated technology, and timely noti-
4 fication from judicial bodies concerning traffic and crimi-
5 nal convictions of commercial driver's license holders.

6 (b) MEMBERSHIP.—Members of the working group
7 should include State motor vehicle administrators, the
8 American Association of Motor Vehicle Administrators,
9 members of the Judicial Conference, American Trucking
10 Association representatives, representatives of labor orga-
11 nizations, safety advocates, and other significant stake-
12 holders.

13 (c) REPORT.—Within 2 years after the date of enact-
14 ment of this Act, the Secretary, on behalf of the working
15 group, shall complete a report of the working group's find-
16 ings and recommendations for legislative, regulatory, and
17 enforcement changes to improve the commercial driver's
18 license program. The Secretary shall promptly transmit
19 the report to the Senate Committee on Commerce,
20 Science, and Transportation and the House of Represent-
21 atives Committee on Transportation and Infrastructure.

22 (d) FUNDING.—From the funds authorized by section
23 222(c)(1) of this Title, \$200,000 shall be made available
24 for each of fiscal years 2004 and 2005 to carry out this
25 section.

1 **SEC. 225. CDL LEARNER'S PERMIT PROGRAM.**

2 Chapter 313 is amended—

3 (1) by inserting “or learner’s permit” after “li-
4 cense” each place it appears in the text of section
5 31302;

6 (2) by inserting “and learners’ permits” after
7 “licenses” the first place it appears in section
8 31308(a);

9 (3) by striking “licenses.” in section 31308(a)
10 and inserting “licenses and permits.”;

11 (4) by redesignating paragraphs (2) and (3) of
12 section 31308(a) as paragraphs (2) and (4), respec-
13 tively, and inserting after paragraph (2) the fol-
14 lowing:

15 “(2) before a commercial driver’s license learn-
16 er’s permit can be issued to an individual, the indi-
17 vidual must pass a written test on the operation of
18 a commercial motor vehicle that complies with the
19 minimum standards prescribed by the Secretary
20 under section 31305(a) of this title;”;

21 (5) by inserting “or learner’s permit” after “li-
22 cense” each place it appears in paragraphs (3) and
23 (4), as redesignated, of section 31308(a); and

24 (6) by inserting “or learner’s permit” after “li-
25 cense” each place it appears in section 31309(b).

1 **SEC. 226. HOBBS ACT.**

2 (a) Section 2342(3)(A) of title 28, United States
3 Code, is amended to read as follows:

4 “(A) the Secretary of Transportation issued
5 pursuant to section 2, 9, 37, or 41 of the Shipping
6 Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839,
7 and 841a) or pursuant to Part B or C of subtitle
8 IV of title 49 or pursuant to subchapter III of chap-
9 ter 311, chapter 313, and chapter 315 of Part B of
10 subtitle VI of title 49; and”.

11 (b) Section 351(a) is amended to read as follows:

12 “(a) JUDICIAL REVIEW.—An action of the Secretary
13 of Transportation in carrying out a duty or power trans-
14 ferred under the Department of Transportation Act (Pub-
15 lic Law 89–670; 80 Stat. 931), or an action of the Admin-
16 istrator of the Federal Railroad Administration, Federal
17 Motor Carrier Safety Administration, or the Federal Avia-
18 tion Administration in carrying out a duty or power spe-
19 cifically assigned to the Administrator by that Act, may
20 be reviewed judicially to the same extent and in the same
21 way as if the action had been an action by the department,
22 agency, or instrumentality of the United States Govern-
23 ment carrying out the duty or power immediately before
24 the transfer or assignment.”.

25 (c) Section 352 is amended to read as follows:

1 **“§ 352. Authority to carry out certain transferred du-**
2 **ties and powers**

3 “In carrying out a duty or power transferred under
4 the Department of Transportation Act (Public Law 89–
5 670; 80 Stat. 931), the Secretary of Transportation and
6 the Administrators of the Federal Railroad Administra-
7 tion, the Federal Motor Carrier Safety Administration,
8 and the Federal Aviation Administration have the same
9 authority that was vested in the department, agency, or
10 instrumentality of the United States Government carrying
11 out the duty or power immediately before the transfer. An
12 action of the Secretary or Administrator in carrying out
13 the duty or power has the same effect as when carried
14 out by the department, agency, or instrumentality.”.

15 **SEC. 227. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

16 Section 521(b)(2) is amended by adding at the end
17 the following:

18 “(E) COPYING OF RECORDS AND ACCESS TO EQUIP-
19 MENT, LANDS, AND BUILDINGS.—A motor carrier subject
20 to chapter 51 of subtitle III, a motor carrier, broker, or
21 freight forwarder subject to part B of subtitle IV, or the
22 owner or operator of a commercial motor vehicle subject
23 to part B of subtitle VI of this title who fails to allow
24 the Secretary, or an employee designated by the Secretary,
25 promptly upon demand to inspect and copy any record or
26 inspect and examine equipment, lands, buildings and other

1 property in accordance with sections 504(c), 5121(c), and
2 14122(b) of this title shall be liable to the United States
3 for a civil penalty not to exceed \$500 for each offense,
4 and each day the Secretary is denied the right to inspect
5 and copy any record or inspect and examine equipment,
6 lands, buildings and other property shall constitute a sepa-
7 rate offense, except that the total of all civil penalties
8 against any violator for all offenses related to a single vio-
9 lation shall not exceed \$5,000. It shall be a defense to
10 such penalty that the records did not exist at the time
11 of the Secretary's request or could not be timely produced
12 without unreasonable expense or effort. Nothing herein
13 amends or supersedes any remedy available to the Sec-
14 retary under sections 502(d), 507(c), or other provision
15 of this title.”.

16 **SEC. 228. MEDICAL REVIEW BOARD AND MEDICAL EXAM-**
17 **INERS.**

18 (a) MEDICAL REVIEW BOARD.—

19 (1) ESTABLISHMENT AND FUNCTION.—The
20 Federal Motor Carrier Safety Administrator shall es-
21 tablish a Medical Review Board as an advisory com-
22 mittee to provide the Federal Motor Carrier Safety
23 Administration with medical advice and rec-
24 ommendations on driver qualification medical stand-

1 ards and guidelines, medical examiner education,
2 and medical research.

3 (2) COMPOSITION.—The Medical Review Board
4 shall be appointed by the Secretary and shall consist
5 of 5 members selected from medical institutions and
6 private practice. The membership shall reflect exper-
7 tise in a variety of specialties relevant to the func-
8 tions of the Federal Motor Carrier Safety Adminis-
9 tration.

10 (3) TERMINATION DATE.—The Medical Review
11 Board shall terminate on October 1, 2009.

12 (b) MEDICAL EXAMINERS.—Section 31136(a)(3) is
13 amended to read as follows:

14 “(3) the physical condition of operators of com-
15 mercial motor vehicles is adequate to enable them to
16 operate the vehicles safely, and the periodic physical
17 examinations required of such operators are per-
18 formed by medical examiners who have received
19 training in physical and medical examination stand-
20 ards and are listed on a national registry maintained
21 by the Department of Transportation; and”.

1 **SEC. 229. OPERATION OF COMMERCIAL MOTOR VEHICLES**
2 **BY INDIVIDUALS WHO USE INSULIN TO**
3 **TREAT DIABETES MELLITUS.**

4 (a) ISSUANCE OF FINAL RULE.—Not later than 90
5 days after the date of the enactment of this Act, the Sec-
6 retary shall issue a final rule to allow individuals who use
7 insulin to treat their diabetes to operate commercial motor
8 vehicles in interstate commerce. The final rule shall pro-
9 vide for the individual assessment of applicants who use
10 insulin to treat their diabetes and who are, except for their
11 use of insulin, otherwise qualified under the Federal Motor
12 Carrier Safety Regulations. The final rule shall be con-
13 sistent with the criteria described in section 4018 of the
14 Transportation Equity Act for the 21st Century (49
15 U.S.C. 31305 note) and shall conclude the rulemaking
16 process in the Federal Motor Carrier Safety Administra-
17 tion docket relating to qualifications of drivers with diabe-
18 tes.

19 (b) NO HISTORY OF DRIVING WHILE USING INSULIN
20 REQUIRED FOR QUALIFICATION.—The Secretary may not
21 require individuals to have experience operating commer-
22 cial motor vehicles while using insulin in order to qualify
23 to operate a commercial motor vehicle in interstate com-
24 merce.

25 (c) HISTORY OF DIABETES CONTROL.—In the final
26 rule, the Secretary may require an individual to have used

1 insulin for a minimum period of time and demonstrated
2 stable control of diabetes in order to qualify to operate
3 a commercial motor vehicle in interstate commerce. Any
4 such requirement, including any requirement with respect
5 to the duration of such insulin use, shall be consistent with
6 the findings of the expert medical panel reported in July
7 2000 in “A Report to Congress on the Feasibility of a
8 Program to Qualify Individuals with Insulin-Treated Dia-
9 betes Mellitus to Operate Commercial Motor Vehicles in
10 Interstate Commerce as Directed by the Transportation
11 Equity Act for the 21st Century”.

12 (d) LIMITATIONS ON FINAL RULE.—The Secretary
13 shall ensure that individuals who use insulin to treat their
14 diabetes are not held to a higher standard than other
15 qualified commercial drivers, except to the extent that lim-
16 ited operating, monitoring, or medical requirements are
17 deemed medically necessary by experts in the field of dia-
18 betes medicine.

19 **SEC. 230. FINANCIAL RESPONSIBILITY FOR PRIVATE**
20 **MOTOR CARRIERS.**

21 (a) TRANSPORTATION OF PASSENGERS.—

22 (1) Section 31138(a) is amended to read as fol-
23 lows:

24 “(a) GENERAL REQUIREMENT.—The Secretary of
25 Transportation shall prescribe regulations to require min-

1 imum levels of financial responsibility sufficient to satisfy
2 liability amounts established by the Secretary covering
3 public liability and property damage for the transportation
4 of passengers by motor vehicle in the United States be-
5 tween a place in a State and—

6 “(1) a place in another State;

7 “(2) another place in the same State through a
8 place outside of that State; or

9 “(3) a place outside the United States.”.

10 (2) Section 31138(c) is amended by adding at
11 the end the following new paragraph:

12 “(4) The Secretary may require a person, other
13 than a motor carrier as defined in section 13102(12)
14 of this title, transporting passengers by motor vehi-
15 cle to file with the Secretary the evidence of finan-
16 cial responsibility specified in subsection (c)(1) of
17 this section in an amount not less than that required
18 by this section, and the laws of the State or States
19 in which the person is operating, to the extent appli-
20 cable. The extent of the financial responsibility must
21 be sufficient to pay, not more than the amount of
22 the financial responsibility, for each final judgment
23 against the person for bodily injury to, or death of,
24 an individual resulting from the negligent operation,

1 maintenance, or use of motor vehicles, or for loss or
2 damage to property, or both.”.

3 (b) TRANSPORTATION OF PROPERTY.—Section
4 31139 is amended—

5 (1) by striking so much of subsection (b) as
6 precedes paragraph (2) and inserting the following:

7 “(b) GENERAL REQUIREMENTS AND MINIMUM
8 AMOUNT.—

9 “(1) The Secretary of Transportation shall pre-
10 scribe regulations to require minimum levels of fi-
11 nancial responsibility sufficient to satisfy liability
12 amounts established by the Secretary covering public
13 liability, property damage, and environmental res-
14 toration for the transportation of property by motor
15 vehicle in the United States between a place in a
16 State and—

17 “(A) a place in another State;

18 “(B) another place in the same State through
19 a place outside of that State; or

20 “(C) a place outside the United States.”;

21 (2) by aligning the left margin of paragraph (2)
22 of subsection (b) with the left margin of paragraph
23 (1) as amended by this subsection; and

1 (3) by redesignating subsection (c) through (g)
2 as subsections (d) through (h) and inserting after
3 subsection (b) the following new subsection:

4 “(c) **FILING OF EVIDENCE OF FINANCIAL RESPONSIBI-**
5 **BILITY.**—The Secretary may require a motor private car-
6 rier, as defined in section 13102 of this title, to file with
7 the Secretary the evidence of financial responsibility speci-
8 fied in subsection (b) of this section in an amount not
9 less than that required by this section, and the laws of
10 the State or States in which the motor private carrier is
11 operating, to the extent applicable. The amount of the fi-
12 nancial responsibility must be sufficient to pay, not more
13 than the amount of the financial responsibility, for each
14 final judgment against the motor private carrier for bodily
15 injury to, or death of, an individual resulting from neg-
16 ligent operation, maintenance, or use of motor vehicles,
17 or for loss or damage to property, or both.”.

18 **SEC. 231. INCREASED PENALTIES FOR OUT-OF-SERVICE**
19 **VIOLATIONS AND FALSE RECORDS.**

20 (a) Section 521(b)(2)(B) is amended to read as fol-
21 lows:

22 “(B) **RECORDKEEPING AND REPORTING**
23 **VIOLATIONS.**—A person required to make a re-
24 port to the Secretary, answer a question, or
25 make, prepare, or preserve a record under sec-

tion 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

“(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$10,000; or

“(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with

1 the Secretary, knowingly makes or causes
2 or permits to be made a false or incom-
3 plete entry in that record about an oper-
4 ation or business fact or transaction, or
5 knowingly makes, prepares, or preserves a
6 record in violation of a regulation or order
7 of the Secretary, shall be liable to the
8 United States for a civil penalty in an
9 amount not to exceed \$10,000 for each
10 violation, if any such action can be shown
11 to have misrepresented a fact that con-
12 stitutes a violation other than a reporting
13 or recordkeeping violation.”.

14 (b) Section 31310(i)(2) is amended to read as fol-
15 lows:

16 “(2) The Secretary shall prescribe regulations
17 establishing sanctions and penalties related to viola-
18 tions of out-of-service orders by individuals oper-
19 ating commercial motor vehicles. The regulations
20 shall require at least that—

21 “(A) an operator of a commercial motor
22 vehicle found to have committed a first violation
23 of an out-of-service order shall be disqualified
24 from operating such a vehicle for at least 180

1 days and liable for a civil penalty of at least
2 \$2,500;

3 “(B) an operator of a commercial motor
4 vehicle found to have committed a second viola-
5 tion of an out-of-service order shall be disquali-
6 fied from operating such a vehicle for at least
7 2 years and not more than 5 years and liable
8 for a civil penalty of at least \$5,000;

9 “(C) an employer that knowingly allows or
10 requires an employee to operate a commercial
11 motor vehicle in violation of an out-of-service
12 order shall be liable for a civil penalty of not
13 more than \$25,000; and

14 “(D) an employer that knowingly and will-
15 fully allows or requires an employee to operate
16 a commercial motor vehicle in violation of an
17 out-of-service order shall, upon conviction, be
18 subject for each offense to imprisonment for a
19 term not to exceed one year or a fine under title
20 18, United States Code, or both.”.

21 **SEC. 232. ELIMINATION OF COMMODITY AND SERVICE EX-**
22 **EMPTIONS.**

23 (a) Section 13506(a) is amended—

24 (1) by striking paragraphs (2), (6), (11), (12),
25 (13), and (15); and

1 (2) by redesignating paragraphs (3), (4), (5),
2 (7), (8), (9), (10), and (14) as paragraphs (2), (3),
3 (4), (5), (6), (7), (8), and (9), respectively.

4 (b) Section 13507 is amended—by striking “(6), (8),
5 (11), (12), or (13)” and inserting “(6)”.

6 **SEC. 233. INTRASTATE OPERATIONS OF INTERSTATE**
7 **MOTOR CARRIERS.**

8 (a) Subsection (a) of section 31144 is amended to
9 read as follows:

10 “(a) IN GENERAL.—The Secretary shall—

11 “(1) determine whether an owner or operator is
12 fit to operate safely commercial motor vehicles, uti-
13 lizing among other things the accident record of an
14 owner or operator operating in interstate commerce
15 and the accident record and safety inspection record
16 of such owner or operator in operations that affect
17 interstate commerce;

18 “(2) periodically update such safety fitness de-
19 terminations;

20 “(3) make such final safety fitness determina-
21 tions readily available to the public; and

22 “(4) prescribe by regulation penalties for viola-
23 tions of this section consistent with section 521.”.

24 (b) Subsection (c) of section 31144 is amended by
25 adding at the end the following new paragraph:

1 “(5) TRANSPORTATION AFFECTING INTER-
2 STATE COMMERCE.—Owners or operators of com-
3 mercial motor vehicles prohibited from operating in
4 interstate commerce pursuant to paragraphs (1)
5 through (3) of this section may not operate any
6 commercial motor vehicle that affects interstate
7 commerce until the Secretary determines that such
8 owner or operator is fit.”.

9 (c) Section 31144 is amended by redesignating sub-
10 sections (d), (e), and the second subsection (c) as sub-
11 sections (e), (f), and (g), respectively, and inserting after
12 subsection (c) the following new subsection:

13 “(d) DETERMINATION OF UNFITNESS BY A STATE.—
14 If a State that receives Motor Carrier Safety Assistance
15 Program funds pursuant to section 31102 of this title de-
16 termines, by applying the standards prescribed by the Sec-
17 retary under subsection (b) of this section, that an owner
18 or operator of commercial motor vehicles that has its prin-
19 cipal place of business in that State and operates in intra-
20 state commerce is unfit under such standards and pro-
21 hibits the owner or operator from operating such vehicles
22 in the State, the Secretary shall prohibit the owner or op-
23 erator from operating such vehicles in interstate commerce
24 until the State determines that the owner or operator is
25 fit.”.

1 **SEC. 234. AUTHORITY TO STOP COMMERCIAL MOTOR VEHI-**
2 **CLES.**

3 (a) Chapter 2 of title 18, United States Code, is
4 amended by adding at the end the following:

5 **“§ 38. Commercial motor vehicles required to stop**
6 **for inspections**

7 “(a) A driver of a commercial motor vehicle, as de-
8 fined in section 31132(1) of title 49, shall stop and submit
9 to inspection of the vehicle, driver, cargo, and required
10 records when directed to do so by an authorized employee
11 of the Federal Motor Carrier Safety Administration, De-
12 partment of Transportation, at or in the vicinity of an in-
13 spection site. The driver shall not leave the inspection site
14 until authorized to do so by an agent.

15 “(b) A driver of a commercial motor vehicle, as de-
16 fined in subsection (a), who knowingly fails to stop for
17 inspection when directed to do so by an authorized em-
18 ployee of the Federal Motor Carrier Safety Administration
19 at or in the vicinity of an inspection site, or leaves the
20 inspection site without authorization, shall be fined under
21 this title or imprisoned not more than one year, or both.”.

22 (b) Chapter 203 of title 18, United States Code, is
23 amended by adding at the end the following:

1 **“§ 3064. Powers of Federal Motor Carrier Safety Ad-**
2 **ministration**

3 “Authorized employees of the Federal Motor Carrier
4 Safety Administration may direct a driver of a commercial
5 motor vehicle, as defined in 49 U.S.C. 31132(1), to stop
6 for inspection of the vehicle, driver, cargo, and required
7 records at or in the vicinity of an inspection site.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) The chapter analysis for chapter 2 of title
10 18, United States Code, is amended by inserting
11 after the item relating to section 37 the following:

“38. Commercial motor vehicles required to stop for inspections.”.

12 (2) The chapter analysis for chapter 203 of title
13 18, United States Code, is amended by inserting
14 after the item relating to section 3063 the following:

“3064. Powers of Federal Motor Carrier Safety Administration.”.

15 **SEC. 235. REVOCATION OF OPERATING AUTHORITY.**

16 Section 13905(e) is amended—

17 (1) by amending paragraph (1) to read as fol-
18 lows:

19 “(1) PROTECTION OF SAFETY.—Notwith-
20 standing subchapter II of chapter 5 of title 5, the
21 Secretary—

22 “(A) may suspend the registration of a
23 motor carrier, a freight forwarder, or a broker
24 for failure to comply with requirements of the

1 Secretary pursuant to section 13904(c) or
2 13906 of this title, or an order or regulation of
3 the Secretary prescribed under those sections;
4 and

5 “(B) shall revoke the registration of a
6 motor carrier that has been prohibited from op-
7 erating in interstate commerce for failure to
8 comply with the safety fitness requirements of
9 section 31144 of this title.”;

10 (2) in paragraph (2), by striking “may suspend
11 a registration” and inserting “shall revoke the reg-
12 istration”; and

13 (3) in paragraph (3)—

14 (A) in the first sentence, by—

15 (i) inserting “or revoke” after “The
16 Secretary may suspend”; and

17 (ii) inserting “or revocation” after
18 “notice of the suspension”; and

19 (B) in the second sentence, by—

20 (i) striking “The suspension” and in-
21 serting “A suspension”; and

22 (ii) striking “those applicable sec-
23 tions” and all that follows and inserting
24 “the applicable sections.”.

1 **SEC. 236. PATTERN OF SAFETY VIOLATIONS BY MOTOR**
2 **CARRIER MANAGEMENT.**

3 (a) Section 31135 is amended—

4 (1) by inserting “(a) IN GENERAL.—” before
5 “Each”; and

6 (2) by adding at the end the following:

7 “(b) PATTERN OF NON-COMPLIANCE.—If an officer
8 of a motor carrier engages in a pattern or practice of
9 avoiding compliance, or masking or otherwise concealing
10 non-compliance, with regulations on commercial motor ve-
11 hicle safety prescribed under this subchapter, the Sec-
12 retary may suspend, amend, or revoke any part of the
13 motor carrier’s registration under section 13905 of this
14 title.

15 “(c) LIST OF PROPOSED OFFICERS.—Each person
16 seeking registration as a motor carrier under section
17 13902 of this title shall submit a list of the proposed offi-
18 cers of the motor carrier. If the Secretary determines that
19 any of the proposed officers has previously engaged in a
20 pattern or practice of avoiding compliance, or masking or
21 otherwise concealing non-compliance, with regulations on
22 commercial motor vehicle safety prescribed under this
23 chapter, the Secretary may deny the person’s application
24 for registration as a motor carrier under section
25 13902(a)(3).

1 “(d) REGULATIONS.—The Secretary shall by regula-
2 tion establish standards to implement subsections (b) and
3 (c).

4 “(e) DEFINITIONS.—In this section:

5 “(1) MOTOR CARRIER.—The term motor carrier
6 has the meaning given the term in section
7 13102(12) of this title; and

8 “(2) OFFICER.—The term officer means an
9 owner, chief executive officer, chief operating officer,
10 chief financial officer, safety director, vehicle mainte-
11 nance supervisor and driver supervisor of a motor
12 carrier, regardless of the title attached to those
13 functions.”.

14 (b) Section 13902(a)(1)(B) is amended to read as fol-
15 lows:

16 “(B) any safety regulations imposed by the Sec-
17 retary, the duties of employers and employees estab-
18 lished by the Secretary under section 31135, and the
19 safety fitness requirements established by the Sec-
20 retary under section 31144; and”.

21 **SEC. 237. MOTOR CARRIER RESEARCH AND TECHNOLOGY**
22 **PROGRAM.**

23 (a) IN GENERAL—Section 31108 is amended to read
24 as follows:

1 **“§ 31108. Motor carrier research and technology pro-**
2 **gram**

3 “(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY
4 TRANSFER ACTIVITIES.—

5 “(1) The Secretary of Transportation shall es-
6 tablish and carry out a motor carrier and motor
7 coach research and technology program. The Sec-
8 retary may carry out research, development, tech-
9 nology, and technology transfer activities with re-
10 spect to—

11 “(A) the causes of accidents, injuries and
12 fatalities involving commercial motor vehicles;
13 and

14 “(B) means of reducing the number and
15 severity of accidents, injuries and fatalities in-
16 volving commercial motor vehicles.

17 “(2) The Secretary may test, develop, or assist
18 in testing and developing any material, invention,
19 patented article, or process related to the research
20 and technology program.

21 “(3) The Secretary may use the funds appro-
22 priated to carry out this section for training or edu-
23 cation of commercial motor vehicle safety personnel,
24 including, but not limited to, training in accident re-
25 construction and detection of controlled substances
26 or other contraband, and stolen cargo or vehicles.

1 “(4) The Secretary may carry out this
2 section—

3 “(A) independently;

4 “(B) in cooperation with other Federal de-
5 partments, agencies, and instrumentalities and
6 Federal laboratories; or

7 “(C) by making grants to, or entering into
8 contracts, cooperative agreements, and other
9 transactions with, any Federal laboratory, State
10 agency, authority, association, institution, for-
11 profit or non-profit corporation, organization,
12 foreign country, or person.

13 “(5) The Secretary shall use funds made avail-
14 able to carry out this section to develop, administer,
15 communicate, and promote the use of products of re-
16 search, technology, and technology transfer pro-
17 grams under this section.

18 “(b) COLLABORATIVE RESEARCH AND DEVELOP-
19 MENT.—

20 “(1) To advance innovative solutions to prob-
21 lems involving commercial motor vehicle and motor
22 carrier safety, security, and efficiency, and to stimu-
23 late the deployment of emerging technology, the Sec-
24 retary may carry out, on a cost-shared basis, col-
25 laborative research and development with—

1 “(A) non-Federal entities, including State
2 and local governments, foreign governments,
3 colleges and universities, corporations, institu-
4 tions, partnerships, and sole proprietorships
5 that are incorporated or established under the
6 laws of any State; and

7 “(B) Federal laboratories.

8 “(2) In carrying out this subsection, the Sec-
9 retary may enter into cooperative research and de-
10 velopment agreements (as defined in section 12 of
11 the Stevenson-Wydler Technology Innovation Act of
12 1980 (15 U.S.C. 3710a)).

13 “(3)(A) The Federal share of the cost of activi-
14 ties carried out under a cooperative research and de-
15 velopment agreement entered into under this sub-
16 section shall not exceed 50 percent, except that if
17 there is substantial public interest or benefit, the
18 Secretary may approve a greater Federal share.

19 “(B) All costs directly incurred by the non-Fed-
20 eral partners, including personnel, travel, and hard-
21 ware or software development costs, shall be credited
22 toward the non-Federal share of the cost of the ac-
23 tivities described in subparagraph (A).

24 “(4) The research, development, or use of a
25 technology under a cooperative research and develop-

1 ment agreement entered into under this subsection,
2 including the terms under which the technology may
3 be licensed and the resulting royalties may be dis-
4 tributed, shall be subject to the Stevenson-Wydler
5 Technology Innovation Act of 1980 (15 U.S.C. 3701
6 et seq.).

7 “(5) Section 5 of title 41, United States Code,
8 shall not apply to a contract or agreement entered
9 into under this section.

10 “(c) AVAILABILITY OF AMOUNTS.—The amounts
11 made available under section 222(b) of the Motor Carrier
12 Safety Reauthorization Act of 2003 to carry out this sec-
13 tion shall remain available until expended.

14 “(d) CONTRACT AUTHORITY.—Approval by the Sec-
15 retary of a grant with funds made available under section
16 222(b) of the Motor Carrier Safety Reauthorization Act
17 of 2003 to carry out this section imposes upon the United
18 States Government a contractual obligation for payment
19 of the Government’s share of costs incurred in carrying
20 out the objectives of the grant.”.

21 (b) CONFORMING AMENDMENT.—The table of sec-
22 tions at the beginning of chapter 311 is amended by strik-
23 ing the item relating to section 31108, and inserting the
24 following:

 “31108. Motor carrier research and technology program.”.

1 **SEC. 238. REVIEW OF COMMERCIAL ZONE EXEMPTION PRO-**
2 **VISION.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Secretary of Transpor-
5 tation shall complete a review of part 372 of title 49, Code
6 of Federal Regulations, as it pertains to commercial zone
7 exemptions (excluding border commercial zones) from De-
8 partment of Transportation and Surface Transportation
9 Board regulations governing interstate commerce. The
10 Secretary shall determine whether such exemptions should
11 continue to apply as written, should undergo revision, or
12 should be revoked. The Secretary shall submit to the Sen-
13 ate Committee on Commerce, Science, and Transportation
14 and the House of Representatives Committee on Trans-
15 portation and Infrastructure a report of the review not
16 later than 14 months after such date of enactment.

17 (b) NOTICE.—The Secretary shall publish notice of
18 the review required by subsection (a) and provide and op-
19 portunity for the public to submit comments on the effect
20 of continuing, revising, or revoking the commercial zone
21 exemptions in part 372 of title 49, Code of Federal Regu-
22 lations.

23 **SEC. 239. INTERNATIONAL COOPERATION.**

24 (a) Chapter 311 is amended by inserting at the end
25 the following:

1 **“SUBCHAPTER IV—MISCELLANEOUS**

2 **“§ 31161. International cooperation**

3 “The Secretary is authorized to use funds appro-
4 priated under section 31104(i) of this title to participate
5 and cooperate in international activities to enhance motor
6 carrier, commercial motor vehicle, driver, and highway
7 safety by such means as exchanging information, con-
8 ducting research; and examining needs, best practices, and
9 new technology.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of chapter 311 is amended by adding at
12 the end the following:

“SUBCHAPTER IV—MISCELLANEOUS
“31161. International cooperation.”.

13 **SEC. 240. PERFORMANCE AND REGISTRATION INFORMA-**
14 **TION SYSTEM MANAGEMENT.**

15 (a) Section 31106(b) is amended by—

16 (1) striking paragraphs (2) and (3) and insert-
17 ing the following new paragraphs:

18 “(2) DESIGN.—The program shall link Federal
19 motor carrier safety information systems with State
20 commercial vehicle registration and licensing systems
21 and shall be designed to enable a State to—

22 “(A) determine the safety fitness of a
23 motor carrier or registrant when licensing or

1 registering the registrant or motor carrier or
2 while the license or registration is in effect; and

3 “(B) deny, suspend, or revoke the commer-
4 cial motor vehicle registrations of a motor car-
5 rier or registrant that has been issued an oper-
6 ations out-of-service order by the Secretary.

7 “(3) CONDITIONS FOR PARTICIPATION.—The
8 Secretary shall require States, as a condition of par-
9 ticipation in the program, to—

10 “(A) comply with the uniform policies, pro-
11 cedures, and technical and operational stand-
12 ards prescribed by the Secretary under sub-
13 section (a)(4);

14 “(B) possess the authority to impose sanc-
15 tions relating to commercial motor vehicle reg-
16 istration on the basis of a Federal safety fitness
17 determination; and

18 “(C) cancel the motor vehicle registration
19 and seize the registration plates of an employer
20 found liable under section 31310(i)(2)(C) of
21 this title for knowingly allowing or requiring an
22 employee to operate a commercial motor vehicle
23 in violation of an out-of-service order.”; and
24 (2) striking paragraph (4).

1 (b) PERFORMANCE AND REGISTRATION INFORMA-
2 TION SYSTEM MANAGEMENT GRANTS.—

3 (1) Chapter 311 as amended by this title, is
4 further amended by adding at the end the following:

5 **“§ 31109. Performance and Registration Information**
6 **System Management**

7 “(a) IN GENERAL.—From the funds authorized by
8 section 222(c)(2) of the Motor Carrier Safety Reauthor-
9 ization Act of 2003, the Secretary may make a grant in
10 a fiscal year to a State to implement the performance and
11 registration information system management require-
12 ments of section 31106(b).

13 “(b) AVAILABILITY OF AMOUNTS.—Amounts made
14 available to a State under section 222(c)(2) of the Motor
15 Carrier Safety Reauthorization Act of 2003 to carry out
16 this section shall remain available until expended.

17 “(c) SECRETARY’S APPROVAL.—Approval by the Sec-
18 retary of a grant to a State under section 222(c)(2) of
19 the Motor Carrier Safety Reauthorization Act of 2003 to
20 carry out this section is a contractual obligation of the
21 Government for payment of the amount of the grant.”.

22 (c) CONFORMING AMENDMENT.—The chapter anal-
23 ysis for chapter 311 is amended by inserting after the item
24 relating to section 31108 the following:

“31109. Performance and Registration Information System Management.”.

1 **SEC. 241. COMMERCIAL VEHICLE INFORMATION SYSTEMS**
2 **AND NETWORKS DEPLOYMENT.**

3 (a) IN GENERAL.—The Secretary shall carry out a
4 commercial vehicle information systems and networks pro-
5 gram to—

6 (1) improve the safety and productivity of com-
7 mercial vehicles and drivers; and

8 (2) reduce costs associated with commercial ve-
9 hicle operations and Federal and State commercial
10 vehicle regulatory requirements.

11 (b) PURPOSE.—The program shall advance the tech-
12 nological capability and promote the deployment of intel-
13 ligent transportation system applications for commercial
14 vehicle operations, including commercial vehicle, commer-
15 cial driver, and carrier-specific information systems and
16 networks.

17 (c) CORE DEPLOYMENT GRANTS.—

18 (1) IN GENERAL.—The Secretary shall make
19 grants to eligible States for the core deployment of
20 commercial vehicle information systems and net-
21 works.

22 (2) ELIGIBILITY.—To be eligible for a core de-
23 ployment grant under this section, a State—

24 (A) shall have a commercial vehicle infor-
25 mation systems and networks program plan and

1 a top level system design approved by the Sec-
2 retary;

3 (B) shall certify to the Secretary that its
4 commercial vehicle information systems and
5 networks deployment activities, including hard-
6 ware procurement, software and system devel-
7 opment, and infrastructure modifications, are
8 consistent with the national intelligent transpor-
9 tation systems and commercial vehicle informa-
10 tion systems and networks architectures and
11 available standards, and promote interoper-
12 ability and efficiency to the extent practicable;
13 and

14 (C) shall agree to execute interoperability
15 tests developed by the Federal Motor Carrier
16 Safety Administration to verify that its systems
17 conform with the national intelligent transpor-
18 tation systems architecture, applicable stand-
19 ards, and protocols for commercial vehicle infor-
20 mation systems and networks.

21 (3) AMOUNT OF GRANTS.—The maximum ag-
22 gregate amount a State may receive under this sec-
23 tion for the core deployment of commercial vehicle
24 information systems and networks may not exceed
25 \$2,500,000.

1 (4) USE OF FUNDS.—Funds from a grant
2 under this subsection may only be used for the core
3 deployment of commercial vehicle information sys-
4 tems and networks. Eligible States that have either
5 completed the core deployment of commercial vehicle
6 information systems and networks or completed such
7 deployment before core deployment grant funds are
8 expended may use the remaining core deployment
9 grant funds for the expanded deployment of com-
10 mercial vehicle information systems and networks in
11 their State.

12 (d) EXPANDED DEPLOYMENT GRANTS.—

13 (1) IN GENERAL.—For each fiscal year, from
14 the funds remaining after the Secretary has made
15 core deployment grants under subsection (c) of this
16 section, the Secretary may make grants to each eli-
17 gible State, upon request, for the expanded deploy-
18 ment of commercial vehicle information systems and
19 networks.

20 (2) ELIGIBILITY.—Each State that has com-
21 pleted the core deployment of commercial vehicle in-
22 formation systems and networks is eligible for an ex-
23 panded deployment grant.

24 (3) AMOUNT OF GRANTS.—Each fiscal year, the
25 Secretary may distribute funds available for ex-

1 panded deployment grants equally among the eligible
2 States, but not to exceed \$1,000,000 per State.

3 (4) USE OF FUNDS.—A State may use funds
4 from a grant under this subsection only for the ex-
5 panded deployment of commercial vehicle informa-
6 tion systems and networks.

7 (e) FEDERAL SHARE.—The Federal share of the cost
8 of a project payable from funds made available to carry
9 out this section shall not exceed 50 percent. The total Fed-
10 eral share of the cost of a project payable from all eligible
11 sources shall not exceed 80 percent.

12 (f) APPLICABILITY OF TITLE 23, UNITED STATES
13 CODE.—Funds authorized to be appropriated under sub-
14 section (h) shall be available for obligation in the same
15 manner and to the same extent as if such funds were ap-
16 portioned under chapter 1 of title 23, United States Code,
17 except that such funds shall remain available until ex-
18 pended.

19 (g) DEFINITIONS.—In this section:

20 (1) COMMERCIAL VEHICLE INFORMATION SYS-
21 TEMS AND NETWORKS.—The term “commercial ve-
22 hicle information systems and networks” means the
23 information systems and communications networks
24 that provide the capability to—

1 (A) improve the safety of commercial vehi-
2 cle operations;

3 (B) increase the efficiency of regulatory in-
4 spection processes to reduce administrative bur-
5 dens by advancing technology to facilitate in-
6 spections and increase the effectiveness of en-
7 forcement efforts;

8 (C) advance electronic processing of reg-
9 istration information, driver licensing informa-
10 tion, fuel tax information, inspection and crash
11 data, and other safety information;

12 (D) enhance the safe passage of commer-
13 cial vehicles across the United States and
14 across international borders; and

15 (E) promote the communication of infor-
16 mation among the States and encourage
17 multistate cooperation and corridor develop-
18 ment.

19 (2) COMMERCIAL VEHICLE OPERATIONS.—The
20 term “commercial vehicle operations”—

21 (A) means motor carrier operations and
22 motor vehicle regulatory activities associated
23 with the commercial movement of goods, includ-
24 ing hazardous materials, and passengers; and

1 (B) with respect to the public sector, in-
2 cludes the issuance of operating credentials, the
3 administration of motor vehicle and fuel taxes,
4 and roadside safety and border crossing inspec-
5 tion and regulatory compliance operations.

6 (3) CORE DEPLOYMENT.—The term “core de-
7 ployment” means the deployment of systems in a
8 State necessary to provide the State with the fol-
9 lowing capabilities:

10 (A) SAFETY INFORMATION EXCHANGE.—
11 Safety information exchange to—

12 (i) electronically collect and transmit
13 commercial vehicle and driver inspection
14 data at a majority of inspection sites;

15 (ii) connect to the Safety and Fitness
16 Electronic Records system for access to
17 interstate carrier and commercial vehicle
18 data, summaries of past safety perform-
19 ance, and commercial vehicle credentials
20 information; and

21 (iii) exchange carrier data and com-
22 mercial vehicle safety and credentials infor-
23 mation within the State and connect to
24 Safety and Fitness Electronic Records for

1 access to interstate carrier and commercial
2 vehicle data.

3 (B) INTERSTATE CREDENTIALS ADMINIS-
4 TRATION.—Interstate credentials administration
5 to—

6 (i) perform end-to-end processing, in-
7 cluding carrier application, jurisdiction ap-
8 plication processing, and credential
9 issuance, of at least the International Reg-
10 istration Plan and International Fuel Tax
11 Agreement credentials and extend this
12 processing to other credentials, including
13 intrastate, titling, oversize/overweight, car-
14 rier registration, and hazardous materials;

15 (ii) connect to the International Reg-
16 istration Plan and International Fuel Tax
17 Agreement clearinghouses; and

18 (iii) have at least 10 percent of the
19 transaction volume handled electronically,
20 and have the capability to add more car-
21 riers and to extend to branch offices where
22 applicable.

23 (C) ROADSIDE SCREENING.—Roadside
24 electronic screening to electronically screen
25 transponder-equipped commercial vehicles at a

1 minimum of one fixed or mobile inspection sites
2 and to replicate this screening at other sites.

3 (4) EXPANDED DEPLOYMENT.—The term “ex-
4 panded deployment” means the deployment of sys-
5 tems in a State that exceed the requirements of an
6 core deployment of commercial vehicle information
7 systems and networks, improve safety and the pro-
8 ductivity of commercial vehicle operations, and en-
9 hance transportation security.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated from the Highway Trust
12 Fund (other than the Mass Transit Account) \$25,000,000
13 in each of fiscal years 2004 through 2009 to carry out
14 this section.

15 **SEC. 242. OUTREACH AND EDUCATION.**

16 (a) IN GENERAL.—The Secretary of Transportation,
17 through the National Highway Traffic Safety Administra-
18 tion and the Federal Motor Carrier Safety Administration,
19 may undertake outreach and education initiatives, includ-
20 ing the “Share the Road Safely” program, that may re-
21 duce the number of highway accidents, injuries, and fatali-
22 ties involving commercial motor vehicles. The Secretary
23 may not use funds authorized by this subtitle for the
24 “Safety Is Good Business” program.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary for fis-
3 cal year 2004 to carry out this section—

4 (1) \$250,000 for the Federal Motor Carrier
5 Safety Administration; and

6 (2) \$750,000 for the National Highway Traffic
7 Safety Administration.

8 **SEC. 243. TECHNICAL CORRECTION.**

9 Section 31144 is amended by redesignating the sub-
10 section after subsection (e) as subsection (f).

11 **TITLE III—HOUSEHOLD GOODS**
12 **MOVERS**

13 **SEC. 301. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED**
14 **STATES CODE.**

15 (a) SHORT TITLE.—This title may be cited as the
16 “Household Goods Mover Oversight Enforcement and Re-
17 form Act of 2003”.

18 (b) AMENDMENT OF TITLE 49, UNITED STATES
19 CODE.—Except as otherwise specifically provided, when-
20 ever in this title an amendment is expressed in terms of
21 an amendment to a section or other provision of law, the
22 reference shall be considered to be made to a section or
23 other provision of title 49, United States Code.

24 **SEC. 302. FINDINGS; SENSE OF CONGRESS.**

25 The Congress finds the following:

1 (1) There are approximately 1,500,000 inter-
2 state household moves every year. While the vast
3 majority of these interstate moves are completed
4 successfully, consumer complaints have been increas-
5 ing since the Interstate Commerce Commission was
6 abolished in 1996 and oversight of the household
7 goods industry was transferred to the Department of
8 Transportation.

9 (2) While the overwhelming majority of house-
10 hold goods carriers are honest and operate within
11 the law, there appears to be a growing criminal ele-
12 ment that is exploiting a perceived void in Federal
13 and State enforcement efforts. The growing criminal
14 element tends to prey upon consumers.

15 (3) The movement of an individual's household
16 goods is unique and differs from the movement of a
17 commercial shipment. A consumer may utilize a
18 moving company once or twice in the consumer's
19 lifetime and entrust virtually all of the consumer's
20 worldly goods to a mover.

21 (4) Federal resources are inadequate to prop-
22 erly police or deter, on a nationwide basis, those
23 movers who willfully violate Federal regulations gov-
24 erning the household goods industry and knowingly
25 prey on consumers who are in a vulnerable position.

1 It is appropriate that a Federal-State partnership be
2 created to enhance enforcement against fraudulent
3 moving companies.

4 **SEC. 303. DEFINITIONS.**

5 In this title, the terms “carrier”, “household goods”,
6 “motor carrier”, “Secretary”, and “transportation” have
7 the meaning given such terms in section 13102 of title
8 49, United States Code.

9 **SEC. 304. PAYMENT OF RATES.**

10 Section 13707(b) is amended by adding at the end
11 the following new paragraph:

12 “(3) SHIPMENTS OF HOUSEHOLD GOODS.—

13 “(A) IN GENERAL.—A carrier providing
14 transportation for a shipment of household
15 goods shall give up possession of the household
16 goods transported at the destination upon pay-
17 ment of—

18 “(i) 100 percent of the charges con-
19 tained in a binding estimate provided by
20 the carrier;

21 “(ii) not more than 110 percent of the
22 charges contained in a nonbinding estimate
23 provided by the carrier; or

24 “(iii) in the case of a partial delivery
25 of the shipment, the prorated percentage

1 of the charges calculated in accordance
2 with subparagraph (B).

3 “(B) CALCULATION OF PRORATED
4 CHARGES.—For purposes of subparagraph
5 (A)(iii), the prorated percentage of the charges
6 shall be the percentage of the total charges due
7 to the carrier as described in clause (i) or (ii)
8 of subparagraph (A) that is equal to the per-
9 centage of the shipment delivered, based on the
10 inventory provided by the carrier under section
11 14104(d) of this title.”.

12 **SEC. 305. HOUSEHOLD GOODS CARRIER OPERATIONS.**

13 Section 14104 is amended—

14 (1) by striking paragraph (1) of subsection (b)
15 and inserting the following:

16 “(1) REQUIREMENT FOR WRITTEN ESTI-
17 MATE.—A motor carrier providing transportation of
18 household goods subject to jurisdiction under sub-
19 chapter I of chapter 135 shall provide to a prospec-
20 tive shipper a written estimate of all charges related
21 to the transportation of the household goods, includ-
22 ing charges for—

23 “(A) packing;

24 “(B) unpacking;

25 “(C) loading;

1 “(D) unloading; and

2 “(E) handling of the shipment from the
3 point of origin to the final destination (whether
4 that destination is storage or transit).”;

5 (2) by redesignating paragraph (2) of such sub-
6 section as paragraph (4); and

7 (3) by inserting after paragraph (1), as amend-
8 ed by paragraph (1), the following new paragraphs:

9 “(2) OTHER INFORMATION.—At the time that a
10 motor carrier provides the written estimate required
11 by paragraph (1), the motor carrier shall provide the
12 shipper a copy of the Department of Transportation
13 publication FMCSA-ESA-03-005 (or its successor
14 edition or publication) entitled “Ready to Move?”.
15 Before the execution of a contract for service, a
16 motor carrier shall provide the shipper a copy of the
17 Department of Transportation publication OCE 100,
18 entitled ‘Your Rights and Responsibilities When You
19 Move’ required by section 375.2 of title 49, Code of
20 Federal Regulations (or any corresponding similar
21 regulation).

22 “(3) BINDING AND NONBINDING ESTIMATES.—
23 The written estimate required by paragraph (1) may
24 be either binding or nonbinding. If the written esti-
25 mate is nonbinding, and is not based on a visual in-

1 specion, the carrier shall, at the first opportunity
2 and prior to the execution of a contract for service,
3 conduct a visual inspection of the household goods to
4 be transported and provide a revised written esti-
5 mate if the estimated charges are different than the
6 original estimate. The Secretary may not prohibit
7 any such carrier from charging a prospective shipper
8 for providing a written, binding estimate for the
9 transportation and related services.”;

10 (4) by redesignating subsection (c) as sub-
11 section (e); and

12 (5) by inserting after subsection (b), as amend-
13 ed by paragraphs (1) and (2), the following new sub-
14 sections:

15 “(c) NOTIFICATION OF FINAL CHARGES.—If the
16 final charges for a shipment of household goods exceed
17 100 percent of a binding estimate or 110 percent of a non-
18 binding estimate, the motor carrier shall provide the ship-
19 per an itemized statement of the charges not later than
20 24 hours prior to the delivery of the shipment. Such notifi-
21 cation shall—

22 “(1) be delivered in writing at the motor car-
23 rier’s expense; and

1 “(2) disclose the requirements of section
2 13707(b)(3) of this title regarding payment for de-
3 livery of a shipment of household goods.

4 “(d) REQUIREMENT FOR INVENTORY.—A motor car-
5 rier providing transportation of a shipment of household
6 goods, as defined in section 13012(10)(A), that is subject
7 to jurisdiction under subchapter I of chapter 135 of this
8 title shall, at the time of loading the shipment, prepare
9 a written inventory of all articles tendered and accepted
10 by the motor carrier for transportation. Such inventory
11 shall—

12 “(1) list or otherwise reasonably identify each
13 item tendered for transportation;

14 “(2) be signed by the shipper and the motor
15 carrier, or the agent of the shipper or carrier, at the
16 time the shipment is loaded and at the time the
17 shipment is unloaded at the final destination;

18 “(3) be attached to, and considered part of, the
19 bill of lading; and

20 “(4) be subject to the same requirements of the
21 Secretary for record inspection and preservation that
22 apply to bills of lading.”.

23 **SEC. 306. LIABILITY OF CARRIERS UNDER RECEIPTS AND**
24 **BILLS OF LADING.**

25 Section 14706(f) is amended—

1 (1) by striking “A carrier” and inserting the
2 following:

3 “(1) IN GENERAL.—A carrier”; and

4 (2) by adding at the end, the following:

5 “(2) FULL VALUE PROTECTION OBLIGATION.—Un-
6 less the carrier receives a waiver in writing under para-
7 graph (3), a carrier’s maximum liability for household
8 goods that are lost, damaged, destroyed, or otherwise not
9 delivered to the final destination is an amount equal to
10 the declared total value of such goods.

11 “(3) APPLICATION OF RATES.—The released rates es-
12 tablished by the Board under paragraph (1) (commonly
13 known as ‘released rates’) shall not apply to the transpor-
14 tation of household goods by a carrier unless the liability
15 of the carrier for the full value of such household goods
16 under paragraph (2) is waived in writing by the shipper.”.

17 **SEC. 307. DISPUTE SETTLEMENT FOR SHIPMENTS OF**
18 **HOUSEHOLD GOODS.**

19 (a) IN GENERAL.—Section 14708(a) is amended—

20 (1) by striking “As a condition” and inserting
21 the following:

22 “(1) REQUIREMENT TO OFFER.—As a condi-
23 tion”;

24 (2) by striking “shippers of household goods
25 concerning damage or loss to the household goods

1 transported.” and inserting “shippers. However, the
2 carrier may not require the shipper to agree to use
3 arbitration as a means to settle such a dispute.”;
4 and

5 (3) by inserting at the end, the following new
6 paragraphs:

7 “(2) REQUIREMENTS FOR CARRIERS.—If a dis-
8 pute with a carrier providing transportation of
9 household goods involves a claim that is—

10 “(A) not more than \$5,000 and the ship-
11 per requests arbitration, such arbitration shall
12 be binding on the parties; or

13 “(B) for more than \$5,000 and the shipper
14 requests arbitration, such arbitration shall be
15 binding on the parties only if the carrier agrees
16 to arbitration.”.

17 (b) ARBITRATION REQUIREMENTS.—

18 (1) IN GENERAL.—Section 14708(b) is
19 amended—

20 (A) by striking paragraph (4) and insert-
21 ing the following:

22 “(4) INDEPENDENCE OF ARBITRATOR.—The
23 Secretary shall establish a system for the certifi-
24 cation of persons authorized to arbitrate or other-
25 wise settle a dispute between a shipper of household

1 goods and a carrier. The Secretary shall ensure that
2 each person so certified is—

3 “(A) independent of the parties to the dis-
4 pute;

5 “(B) capable, as determined under such
6 regulations as the Secretary may issue, to re-
7 solve such disputes fairly and expeditiously; and

8 “(C) authorized and able to obtain from
9 the shipper or carrier any material and relevant
10 information to the extent necessary to carry out
11 a fair and expeditious decisionmaking process.”;

12 (B) by striking paragraph (6); and

13 (C) by redesignating paragraphs (7) and
14 (8) as paragraphs (6) and (7), respectively.

15 (2) CONFORMING AMENDMENTS.—Subsections
16 (d)(3)(A) and (e)(2)(A) of section 14708 are amend-
17 ed by striking “(b)(8)” each place it appears and in-
18 serting “(b)(7)”.

19 (c) ATTORNEY’S FEES TO CARRIERS.—Section
20 14708(e) is further amended by striking “only if” and all
21 that follows through the period at the end and inserting
22 “only if—

23 “(1) the court proceeding is to enforce a deci-
24 sion rendered in favor of the carrier through arbitra-
25 tion under this section and is instituted after the

1 shipper has a reasonable opportunity to pay any
2 charges required by such decision; or

3 “(2) the shipper brought such action in bad
4 faith—

5 “(A) after resolution of such dispute
6 through arbitration under this section; or

7 “(B) after institution of an arbitration
8 proceeding by the shipper to resolve such dis-
9 pute under this section but before—

10 “(i) the period provided under sub-
11 section (b)(7) for resolution of such dis-
12 pute (including, if applicable, an extension
13 of such period under such subsection)
14 ends; and

15 “(ii) a decision resolving such dispute
16 is rendered.”.

17 (d) REVIEW AND REPORT ON DISPUTE SETTLEMENT
18 PROGRAMS.—

19 (1) REVIEW AND REPORT.—Not later than 1
20 year after the date of enactment of this Act, the
21 Secretary shall complete a review of the outcomes
22 and the effectiveness of the programs carried out
23 under title 49, United States Code, to settle disputes
24 between motor carriers and shippers and submit a
25 report on the review to the Senate Committee on

1 Commerce, Science, and Transportation and the
2 House of Representatives Committee on Transpor-
3 tation and Infrastructure.

4 (2) REQUIREMENT FOR PUBLIC COMMENT.—

5 The Secretary shall publish notice of the review re-
6 quired by paragraph (1) and provide an opportunity
7 for the public to submit comments on the effective-
8 ness of such programs.

9 **SEC. 308. ENFORCEMENT OF REGULATIONS RELATED TO**
10 **TRANSPORTATION OF HOUSEHOLD GOODS.**

11 (a) NONPREEMPTION OF INTRASTATE TRANSPOR-
12 TATION OF HOUSEHOLD GOODS.—Section
13 14501(c)(2)(B) is amended by inserting “intrastate” be-
14 fore “transportation”.

15 (b) ENFORCEMENT OF FEDERAL LAW WITH RE-
16 SPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—

17 (1) IN GENERAL.—Chapter 147 is amended by
18 adding at the end the following new sections:

19 **“§14710. Enforcement of Federal laws and regula-**
20 **tions with respect to transportation of**
21 **household goods**

22 “(a) ENFORCEMENT BY STATES.—Notwithstanding
23 any other provision of this title, a State authority may
24 enforce part B of subtitle IV of this title and regulations
25 thereunder related to transportation of household goods

1 in interstate commerce. Any fine or penalty imposed on
2 a carrier in a proceeding under this subsection shall, not-
3 withstanding any provision of law to the contrary, be paid
4 to and retained by the State.

5 “(b) STATE AUTHORITY DEFINED.—The term ‘State
6 authority’ means an agency of a State that has authority
7 under the laws of the State to regulate the intrastate
8 movement of household goods.

9 **“§ 14711. Enforcement by State attorneys general**

10 “(a) IN GENERAL.—A State, as *parens patriae*, may
11 bring a civil action on behalf of its residents in an appro-
12 priate district court of the United States to enforce this
13 part, or a regulation or order of the Secretary or Board,
14 as applicable, or to impose the civil penalties authorized
15 by this part or such regulation or order, whenever the at-
16 torney general of the State has reason to believe that the
17 interests of the residents of the State have been or are
18 being threatened or adversely affected by a carrier or
19 broker providing transportation subject to jurisdiction
20 under subchapter I or III of chapter 135 of this title, or
21 a foreign motor carrier providing transportation registered
22 under section 13902 of this title, that is engaged in house-
23 hold goods transportation that violates this part or a regu-
24 lation or order of the Secretary or Board, as applicable.

1 “(b) NOTICE.—The State shall serve written notice
2 to the Secretary or the Board, as the case may be, of any
3 civil action under subsection (a) prior to initiating such
4 civil action. The notice shall include a copy of the com-
5 plaint to be filed to initiate such civil action, except that
6 if it is not feasible for the State to provide such prior no-
7 tice, the State shall provide such notice immediately upon
8 instituting such civil action.

9 “(c) AUTHORITY TO INTERVENE.—Upon receiving
10 the notice required by subsection (b), the Secretary or
11 Board may intervene in such civil action and upon
12 intervening—

13 “(1) be heard on all matters arising in such
14 civil action; and

15 “(2) file petitions for appeal of a decision in
16 such civil action.

17 “(d) CONSTRUCTION.—For purposes of bringing any
18 civil action under subsection (a), nothing in this section
19 shall prevent the attorney general of a State from exer-
20 cising the powers conferred on the attorney general by the
21 laws of such State to conduct investigations or to admin-
22 ister oaths or affirmations or to compel the attendance
23 of witnesses or the production of documentary and other
24 evidence.

1 “(e) VENUE; SERVICE OF PROCESS.—In a civil action
2 brought under subsection (a)—

3 “(1) the venue shall be a judicial district in
4 which—

5 “(A) the carrier, foreign motor carrier, or
6 broker operates;

7 “(B) the carrier, foreign motor carrier, or
8 broker was authorized to provide transportation
9 at the time the complaint arose; or

10 “(C) where the defendant in the civil ac-
11 tion is found;

12 “(2) process may be served without regard to
13 the territorial limits of the district or of the State
14 in which the civil action is instituted; and

15 “(3) a person who participated with a carrier or
16 broker in an alleged violation that is being litigated
17 in the civil action may be joined in the civil action
18 without regard to the residence of the person.

19 “(f) ENFORCEMENT OF STATE LAW.—Nothing con-
20 tained in this section shall prohibit an authorized State
21 official from proceeding in State court to enforce a crimi-
22 nal statute of such State.”.

23 (2) CONFORMING AMENDMENT.—The analysis
24 for chapter 147 is amended by inserting after the
25 item relating to section 14709 the following:

“14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.

“14711. Enforcement by State attorneys general.”.

1 **SEC. 309. WORKING GROUP FOR DEVELOPMENT OF PRAC-**
2 **TICES AND PROCEDURES TO ENHANCE FED-**
3 **ERAL-STATE RELATIONS.**

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State authorities that regulate the movement of household goods, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

20 **SEC. 310. CONSUMER HANDBOOK ON DOT WEBSITE.**

21 Within 6 months after the date of enactment of this
22 Act, the Secretary shall take such action as may be nec-
23 essary to ensure that the Department of Transportation
24 publication OCE 100, entitled “Your Rights and Respon-

1 sibilities When You Move” required by section 375.2 of
2 title 49, Code of Federal Regulations (or any cor-
3 responding similar regulation), is prominently displayed,
4 and available in language that is readily understandable
5 by the general public, on the website of the Department
6 of Transportation.

7 **SEC. 311. INFORMATION ABOUT HOUSEHOLD GOODS**
8 **TRANSPORTATION ON CARRIERS’ WEBSITES.**

9 Not later than 1 year after the date of enactment
10 of this Act, the Secretary shall modify the regulations con-
11 tained in part 375 of title 49, Code of Federal Regula-
12 tions, to require a motor carrier or broker that is subject
13 to such regulations and that establishes and maintains a
14 website to prominently display on the website—

15 (1) the number assigned to the motor carrier or
16 broker by the Department of Transportation;

17 (2) the OCE 100 publication referred to in sec-
18 tion 310; and

19 (3) in the case of a broker, a list of all motor
20 carriers providing transportation of household goods
21 used by the broker and a statement that the broker
22 is not a motor carrier providing transportation of
23 household goods.

1 **SEC. 312. CONSUMER COMPLAINTS.**

2 (a) REQUIREMENT FOR DATABASE.—Chapter 141 is
3 amended by adding at the end the following new section:

4 **“§ 14124. Consumer complaints**

5 “(a) ESTABLISHMENT OF SYSTEM AND DATABASE.—

6 The Secretary shall—

7 “(1) establish a system to—

8 “(A) file and log a complaint made by a
9 shipper that relates to motor carrier transpor-
10 tation of household goods; and

11 “(B) to compile any complaint information
12 gathered by a State with regard to such trans-
13 portation;

14 “(2) establish a database of such complaints;

15 and

16 “(3) develop a procedure—

17 “(A) to provide the public access to the
18 database;

19 “(B) to forward a complaint, including the
20 motor carrier bill of lading number related to
21 the complaint to a motor carrier named in such
22 complaint and to an appropriate State authority
23 (as defined in section 14710(c));

24 “(C) to permit a motor carrier to challenge
25 information in the database; and

1 “(D) to provide, for motor carriers in-
2 cluded in the database, the percentage of such
3 complaints that are disputed by each such
4 motor carrier.

5 “(b) REQUIREMENT FOR ANNUAL REPORTS.—The
6 Secretary shall issue regulations requiring a motor carrier
7 that provides transportation of household goods to submit
8 to the Secretary, not later than March 31st of each year,
9 an annual report covering the 12-month period ending on
10 the preceding March 31st that includes—

11 “(1) the number of shipments of household
12 goods that the motor carrier received from shippers
13 and that were delivered to a final destination during
14 the preceding calendar year;

15 “(2) the number and general category of com-
16 plaints lodged against the motor carrier during the
17 preceding calendar year;

18 “(3) the number of shipments described in
19 paragraph (1) that resulted in the filing of a claim
20 against the motor carrier for loss or damage to the
21 shipment for an amount in excess of \$500 during
22 the preceding calendar year broken down by—

23 “(A) the number of claims filed by ship-
24 pers relocated under a contract between the
25 motor carrier and shippers’ employers; and

1 “(B) the number of claims filed by other
2 shippers; and

3 “(4) the number of shipments described in
4 paragraph (3) that were—

5 “(A) resolved during the preceding cal-
6 endar year; or

7 “(B) pending on the last day of the pre-
8 ceding calendar year.”.

9 (b) CONFORMING AMENDMENT.—The analysis for
10 chapter 141 is amended by inserting after the item relat-
11 ing to section 14123 the following:

“14124. Consumer complaints.”.

12 **SEC. 313. REVIEW OF LIABILITY OF CARRIERS.**

13 (a) REVIEW.—Not later than 1 year after the date
14 of enactment of this Act, the Surface Transportation
15 Board shall complete a review of the current Federal regu-
16 lations regarding the level of liability protection provided
17 by motor carriers that provide transportation of household
18 goods and revise such regulations, if necessary, to provide
19 enhanced protection in the case of loss or damage.

20 (b) DETERMINATIONS.—The review required by sub-
21 section (a) shall include a determination of—

22 (1) whether the current regulations provide ade-
23 quate protection;

1 (2) the benefits of purchase by a shipper of in-
2 surance to supplement the carrier's limitations on li-
3 ability;

4 (3) whether there are abuses of the current reg-
5 ulations that leave the shipper unprotected in the
6 event of loss and damage to a shipment of household
7 goods; and

8 (4) whether the section 14706 of title 49,
9 United States Code, should be modified or repealed.

10 **SEC. 314. CIVIL PENALTIES RELATING TO HOUSEHOLD**
11 **GOODS BROKERS.**

12 Section 14901(d) is amended—

13 (1) by striking “If a carrier” and inserting the
14 following:

15 “(1) IN GENERAL.—If a carrier”; and

16 (2) by adding at the end the following new
17 paragraphs:

18 “(2) ESTIMATE OF BROKER WITHOUT CARRIER
19 AGREEMENT.—If a broker for transportation of
20 household goods subject to jurisdiction under sub-
21 chapter I of chapter 135 of this title makes an esti-
22 mate of the cost of transporting any such goods be-
23 fore entering into an agreement with a carrier to
24 provide transportation of household goods subject to
25 such jurisdiction, the broker is liable to the United

1 States for a civil penalty of not less than \$10,000
2 for each violation.

3 “(3) UNAUTHORIZED TRANSPORTATION.—If a
4 person provides transportation of household goods
5 subject to jurisdiction under subchapter I of chapter
6 135 this title or provides broker services for such
7 transportation without being registered under chap-
8 ter 139 of this title to provide such transportation
9 or services as a motor carrier or broker, as the case
10 may be, such person is liable to the United States
11 for a civil penalty of not less than \$25,000 for each
12 violation.”.

13 **SEC. 315. CIVIL AND CRIMINAL PENALTY FOR FAILING TO**
14 **GIVE UP POSSESSION OF HOUSEHOLD**
15 **GOODS.**

16 (a) IN GENERAL.—Chapter 149 is amended by add-
17 ing at the end the following new section:

18 **“§ 14915. Penalties for failure to give up possession of**
19 **household goods**

20 “(a) FAILED TO GIVE UP POSSESSION OF HOUSE-
21 HOLD GOODS DEFINED.—For purposes of this section,
22 the term ‘failed to give up possession of household goods’
23 means the knowing and willful failure of a motor carrier
24 to deliver to, or unload at, the destination of a shipment
25 of household goods that is subject to jurisdiction under

1 subchapter I or III of chapter 135 of this title, for which
2 charges have been estimated by the motor carrier pro-
3 viding transportation of such goods, and for which the
4 shipper has made a payment described in clause (i), (ii),
5 or (iii) of section 13707(b)(3)(A) of this title.

6 “(b) CIVIL PENALTY.—Whoever is found to have
7 failed to give up possession of household goods is liable
8 to the United States for a civil penalty of not less than
9 \$10,000. Each day a carrier is found to have failed to
10 give up possession of household goods may constitute a
11 separate violation. If such person is a carrier or broker,
12 the Secretary may suspend for a period of not less than
13 6 months the registration of such carrier or broker under
14 chapter 139 of this title.

15 “(c) CRIMINAL PENALTY.—Whoever has been con-
16 victed of having failed to give up possession of household
17 goods shall be fined under title 18 or imprisoned for not
18 more than 2 years, or both.”.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 such chapter is amended by adding at the end the fol-
21 lowing:

“14915. Penalties for failure to give up possession of household goods.”.

22 **SEC. 316. PROGRESS REPORT.**

23 Not later than 1 year after the date of enactment
24 of this Act, the Secretary shall transmit to Congress a

1 report on the progress being made in implementing the
2 provisions of this title.

3 **TITLE IV—HAZARDOUS MATE-**
4 **RIALS TRANSPORTATION**
5 **SAFETY AND SECURITY**

6 **SEC. 401. SHORT TITLE.**

7 This title may be cited as the “Hazardous Material
8 Transportation Safety and Security Reauthorization Act
9 of 2003”.

10 **SEC. 402. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

11 Except as otherwise expressly provided, whenever in
12 this title an amendment or repeal is expressed in terms
13 of an amendment to, or repeal of, a section or other provi-
14 sion, the reference shall be considered to be made to a
15 section or other provision of title 49, United States Code.

16 SUBTITLE A—GENERAL AUTHORITIES ON
17 TRANSPORTATION OF HAZARDOUS MATERIALS

18 **SEC. 421. PURPOSE.**

19 The text of section 5101 is amended to read as fol-
20 lows:

21 “The purpose of this chapter is to protect against the
22 risks to life, property, and the environment that are inher-
23 ent in the transportation of hazardous material in intra-
24 state, interstate, and foreign commerce.”.

1 **SEC. 422. DEFINITIONS.**

2 Section 5102 is amended as follows:

3 (1) COMMERCE.—Paragraph (1) is amended—

4 (A) in subparagraph (A), by striking “or”
5 at the end;

6 (B) in subparagraph (B), by striking the
7 period at the end and inserting “; or”; and

8 (C) by adding at the end the following new
9 subparagraph:

10 “(C) on a United States-registered air-
11 craft.”.

12 (2) HAZMAT EMPLOYEE.—Paragraph (3) is
13 amended to read as follows:

14 “(3) ‘hazmat employee’ means an individual—

15 “(A) who—

16 “(i) is employed or used by a hazmat
17 employer; or

18 “(ii) is self-employed, including an
19 owner-operator of a motor vehicle, vessel,
20 or aircraft, transporting hazardous mate-
21 rial in commerce; and

22 “(B) who performs a function regulated by
23 the Secretary under section 5103(b)(1) of this
24 title.”.

25 (3) HAZMAT EMPLOYER.—Paragraph (4) is
26 amended to read as follows:

1 “(4) ‘hazmat employer’ means a person—

2 “(A) who—

3 “(i) employs or uses at least one
4 hazmat employee; or

5 “(ii) is self-employed, including an
6 owner-operator of a motor vehicle, vessel,
7 or aircraft, transporting hazardous mate-
8 rial in commerce; and

9 “(B) who performs, or employs or uses at
10 least one hazmat employee to perform, a func-
11 tion regulated by the Secretary under section
12 5103(b)(1) of this title.”.

13 (4) IMMINENT HAZARD.—Paragraph (5) is
14 amended by inserting “relating to hazardous mate-
15 rial” after “of a condition”.

16 (5) MOTOR CARRIER.—Paragraph (7) is amend-
17 ed to read as follows:

18 “(7) ‘motor carrier’—

19 “(A) means a motor carrier, motor private
20 carrier, and freight forwarder as those terms
21 are defined in section 13102 of this title; but

22 “(B) does not include a freight forwarder,
23 as so defined, if the freight forwarder is not
24 performing a function relating to highway
25 transportation.”.

1 (6) NATIONAL RESPONSE TEAM.—Paragraph

2 (8) is amended—

3 (A) by striking “national response team”

4 both places it appears and inserting “National

5 Response Team”; and

6 (B) by striking “national contingency

7 plan” and inserting “National Contingency

8 Plan”.

9 (7) PERSON.—Paragraph (9)(A) is amended by

10 striking “offering” and all that follows and inserting

11 “that—

12 “(i) offers hazardous material for

13 transportation in commerce;

14 “(ii) transports hazardous material to

15 further a commercial enterprise; or

16 “(iii) manufactures, designs, inspects,

17 tests, reconditions, marks, or repairs a

18 packaging or packaging component that is

19 represented as qualified for use in trans-

20 porting hazardous material in commerce;

21 but”.

22 (8) SECRETARY OF TRANSPORTATION.—Section

23 5101 section is further amended—

1 (A) by redesignating paragraphs (11),
2 (12), and (13), as paragraphs (12), (13), and
3 (14), respectively; and

4 (B) by inserting after paragraph (10) the
5 following new paragraph (11):

6 “(11) ‘Secretary’ means the Secretary of Trans-
7 portation except as otherwise provided.”.

8 **SEC. 423. GENERAL REGULATORY AUTHORITY.**

9 (a) REFERENCE TO SECRETARY OF TRANSPOR-
10 TATION.—Section 5103(a) is amended by striking “of
11 Transportation”.

12 (b) DESIGNATING MATERIAL AS HAZARDOUS.—Sec-
13 tion 5103(a) is further amended—

14 (1) by striking “etiologic agent” and all that
15 follows through “corrosive material,” and inserting
16 “infectious substance, flammable or combustible liq-
17 uid, solid, or gas, toxic, oxidizing, or corrosive mate-
18 rial,”; and

19 (2) by striking “decides” and inserting “deter-
20 mines”.

21 (c) REGULATIONS FOR SAFE TRANSPORTATION.—
22 Section 5103(b)(1)(A) is amended to read as follows:

23 “(A) apply to a person who—

24 “(i) transports hazardous material in
25 commerce;

1 “(ii) causes hazardous material to be
2 transported in commerce;

3 “(iii) manufactures, designs, inspects,
4 tests, reconditions, marks, or repairs a
5 packaging or packaging component that is
6 represented as qualified for use in trans-
7 porting hazardous material in commerce;

8 “(iv) prepares or accepts hazardous
9 material for transportation in commerce;

10 “(v) is responsible for the safety of
11 transporting hazardous material in com-
12 merce;

13 “(vi) certifies compliance with any re-
14 quirement under this chapter;

15 “(vii) misrepresents whether such per-
16 son is engaged in any activity under clause
17 (i) through (vi) of this subparagraph; or

18 “(viii) performs any other act or func-
19 tion relating to the transportation of haz-
20 ardous material in commerce; and”.

21 (d) TECHNICAL AMENDMENT REGARDING CON-
22 SULTATION.—Subparagraph (C) of section 5103, as added
23 by 1711(a)(3) of the Homeland Security Act of 2002
24 (Public Law 107–296; 116 Stat. 2319), is redesignated
25 as subsection (c) of such section 5103, and such sub-

1 section, as so redesignated, is indented two ems from the
2 left margin.

3 **SEC. 424. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.**

4 (a) REFERENCE TO SECRETARY OF TRANSPORTATION.—Section 5103a is amended by striking “of
5 TATION.—Section 5103a is amended by striking “of
6 Transportation” each place it appears in subsections
7 (a)(1), (c)(1)(B), and (d).

8 (b) COVERED HAZARDOUS MATERIALS.—Section
9 5103a(b) is amended by striking “with respect to—” and
10 all that follows and inserting “with respect to any material
11 defined as hazardous material by the Secretary for which
12 the Secretary requires placarding of a commercial motor
13 vehicle transporting that material in commerce.”.

14 (c) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL MATERIALS.—Section 5103a is further amended—

16 (1) by redesignating subsections (c), (d), and
17 (e) as subsections (d), (e), and (f), respectively; and

18 (2) by inserting after subsection (b) the following new subsection (c):

20 “(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and
21 LOGICAL MATERIALS.—The Secretary of Health and
22 Human Services shall recommend to the Secretary any
23 chemical or biological material or agent for regulation as
24 a hazardous material under section 5103(a) of this title
25 if the Secretary of Health and Human Services determines

1 that such material or agent is a threat to the national
2 security of the United States.”.

3 (d) CONFORMING AMENDMENT.—Section
4 5103a(a)(1) is amended by striking “subsection
5 (c)(1)(B)” and inserting “subsection (d)(1)(B)”.

6 **SEC. 425. REPRESENTATION AND TAMPERING.**

7 (a) REPRESENTATION.—Section 5104(a) is
8 amended—

9 (1) by striking “a container,” and all that fol-
10 lows through “packaging) for” and inserting “a
11 package, component of a package, or packaging
12 for”; and

13 (2) by striking “the container” and all that fol-
14 lows through “packaging) meets” and inserting “the
15 package, component of a package, or packaging
16 meets”.

17 (b) TAMPERING.—Section 5104(b) is amended—

18 (1) by inserting “, without authorization from
19 the owner or custodian,” after “may not”;

20 (2) by striking “unlawfully”; and

21 (3) by inserting “component of a package, or
22 packaging,” after “package,” in paragraph (2).

1 **SEC. 426. TRANSPORTING CERTAIN HIGHLY RADIOACTIVE**
2 **MATERIAL.**

3 (a) REPEAL OF ROUTES AND MODES STUDY.—Sec-
4 tion 5105 is amended by striking subsection (d).

5 (b) REPEAL OF REQUIREMENT FOR INSPECTIONS OF
6 CERTAIN MOTOR VEHICLES.—Section 5105 is amended
7 by striking subsection (e).

8 **SEC. 427. HAZMAT EMPLOYEE TRAINING REQUIREMENTS**
9 **AND GRANTS.**

10 (a) REFERENCE TO SECRETARY OF TRANSPOR-
11 TATION.—Section 5107 is amended by striking “of Trans-
12 portation” each place it appears in subsections (a), (b),
13 (c) (other than in paragraph (1)), (d), and (f).

14 (b) TRAINING GRANTS.—Section 5107(e) is
15 amended—

16 (1) by striking “section 5127(c)(3)” and insert-
17 ing “section 5128(b)(1) of this title”;

18 (2) by inserting “and, to the extent determined
19 appropriate by the Secretary, grants for such in-
20 structors to train hazmat employees” after “employ-
21 ees” in the first sentence thereof.

22 **SEC. 428. REGISTRATION.**

23 (a) REFERENCE TO SECRETARY OF TRANSPOR-
24 TATION.—Section 5108 is amended by striking “of Trans-
25 portation” each place it appears in subsections (a), (b)

1 (other than following “Department”), (d), (e), (f), (g), (h),
2 and (i).

3 (b) PERSONS REQUIRED TO FILE.—

4 (1) REQUIREMENT TO FILE.—Section
5 5108(a)(1)(B) is amended by striking “class A or B
6 explosive” and inserting “Division 1.1, 1.2, or 1.3
7 explosive material”.

8 (2) AUTHORITY TO REQUIRE TO FILE.—Section
9 5108(a)(2)(B) is amended to read as follows:

10 “(B) a person manufacturing, designing, in-
11 specting, testing, reconditioning, marking, or repair-
12 ing a package or packaging component that is rep-
13 resented as qualified for use in transporting haz-
14 ardous material in commerce.”.

15 (3) NO TRANSPORTATION WITHOUT FILING.—
16 Section 5108(a)(3) is amended by striking “fab-
17 ricate,” and all that follows through “package or”
18 and inserting “design, inspect, test, recondition,
19 mark, or repair a package, packaging component,
20 or”.

21 (c) FORM AND CONTENT OF FILINGS.—Section
22 5108(b)(1)(C) by striking “the activity.” and inserting
23 “any of the activities.”.

24 (d) FILING.—Section 5108(c) is amended to read as
25 follows:

1 “(c) FILING.—Each person required to file a reg-
2 istration statement under subsection (a) of this section
3 shall file the statement in accordance with regulations pre-
4 scribed by the Secretary.”.

5 (e) FEES.—Section 5108(g)(1) is amended by strik-
6 ing “may establish” and inserting “shall establish”.

7 (f) RELATIONSHIP TO OTHER LAWS.—Section
8 5108(i)(2)(B) is amended by inserting “an Indian tribe,”
9 after “subdivision of a State,”.

10 (g) REGISTRATION AND ANNUAL FEES.—

11 (1) REDUCTION IN CAP.—Section
12 5108(g)(2)(A) is amended by striking “\$5,000” and
13 inserting “\$2,000”.

14 (2) RULEMAKING.—Any rule, regulation, or
15 order issued by the Secretary of Transportation
16 under which the assessment, payment, or collection
17 of fees under section 5108(g) of title 49, United
18 States Code, was suspended or terminated before the
19 date of enactment of this Act is declared null and
20 void effective 30 days after such date of enactment.
21 Beginning on the 31st day after such date of enact-
22 ment, the fee schedule established by the Secretary
23 and set forth at 65 Federal Register 7297 (as modi-
24 fied by the rule set forth at 67 Federal Register

1 58343) shall take effect and apply until such time
2 as it may be modified by a rulemaking proceeding.

3 (3) PLANNING AND TRAINING GRANTS.—Not-
4 withstanding any other provision of law to the con-
5 trary, including any limitation on the amount of
6 grants authorized by section 5116 of title 49, United
7 States Code, not contained in that section, the Sec-
8 retary shall make grants under that section from the
9 account established under section 5116(i) to reduce
10 the balance in that account over the 6 fiscal year pe-
11 riod beginning with fiscal year 2004, but in no fiscal
12 year shall the grants distributed exceed the level au-
13 thorized by section 5116 of title 49, United States
14 Code.

15 **SEC. 429. SHIPPING PAPERS AND DISCLOSURE.**

16 (a) REFERENCE TO SECRETARY OF TRANSPOR-
17 TATION.—Section 5110(a) is amended by striking “of
18 Transportation”.

19 (b) DISCLOSURE CONSIDERATIONS AND REQUIRE-
20 MENTS.—Section 5110 is amended—

21 (1) in subsection (a), by striking “under sub-
22 section (b) of this section” and inserting “in regula-
23 tions”;

24 (2) by striking subsection (b); and

1 (3) by redesignating subsections (c), (d), and
2 (e) as subsections (b), (c), and (d), respectively.

3 (c) RETENTION OF PAPERS.—The first sentence of
4 section 5110(d), as redesignated by subsection (b)(3) of
5 this section, is amended to read as follows: “The person
6 who provides the shipping paper, and the carrier required
7 to keep it, under this section shall retain the paper, or
8 an electronic format of it, for a period of 3 years after
9 the date the shipping paper is provided to the carrier, with
10 the paper and format to be accessible through their re-
11 spective principal places of business.”.

12 **SEC. 430. RAIL TANK CARS.**

13 (a) REPEAL OF REQUIREMENTS.—Section 5111 is
14 repealed.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 51 is amended by striking the
17 item relating to section 5111.

18 **SEC. 431. HIGHWAY ROUTING OF HAZARDOUS MATERIAL.**

19 Section 5112(a)(1) is amended in the second sentence
20 by striking “of Transportation”.

21 **SEC. 432. UNSATISFACTORY SAFETY RATINGS.**

22 (a) IN GENERAL.—The text of section 5113 is
23 amended to read as follows:

24 “A violation of section 31144(c)(3) of this title shall
25 be considered a violation of this chapter, and shall be sub-

1 ject to the penalties in sections 5123 and 5124 of this
2 title.”.

3 (b) CONFORMING AMENDMENTS.—The first sub-
4 section (c) of section 31144 is amended—

5 (1) in paragraph (1), by striking “sections
6 521(b)(5)(A) and 5113” and inserting “section
7 521(b)(5)(A) of this title”; and

8 (2) in paragraph (3), by adding at the end the
9 following new sentence: “A violation of this para-
10 graph by an owner or operator transporting haz-
11 ardous material shall be considered a violation of
12 chapter 51 of this title, and shall be subject to the
13 penalties in sections 5123 and 5124 of this title.”.

14 **SEC. 433. AIR TRANSPORTATION OF IONIZING RADIATION**
15 **MATERIAL.**

16 Section 5114(b) is amended by striking “of Trans-
17 portation”.

18 **SEC. 434. TRAINING CURRICULUM FOR THE PUBLIC SEC-**
19 **TOR.**

20 (a) IN GENERAL.—Section 5115(a) is amended to
21 read as follows:

22 “(a) IN GENERAL.—In coordination with the Direc-
23 tor of the Federal Emergency Management Agency, the
24 Chairman of the Nuclear Regulatory Commission, the Ad-
25 ministrator of the Environmental Protection Agency, the

1 Secretaries of Labor, Energy, and Health and Human
2 Services, and the Director of the National Institute of En-
3 vironmental Health Sciences, and using existing coordi-
4 nating mechanisms of the National Response Team and,
5 for radioactive material, the Federal Radiological Pre-
6 paredness Coordinating Committee, the Secretary shall
7 maintain a current curriculum of lists of courses necessary
8 to train public sector emergency response and prepared-
9 ness teams in matters relating to the transportation of
10 hazardous material.”.

11 (b) REQUIREMENTS.—Section 5115(b) is amended—

12 (1) in the matter preceding paragraph (1), by
13 striking “developed” and inserting “maintained”;
14 and

15 (2) in paragraph (1)(C), by striking “under
16 other United States Government grant programs”
17 and all that follows and inserting “with Federal as-
18 sistance; and”.

19 (c) TRAINING ON COMPLIANCE WITH LEGAL RE-
20 QUIREMENTS.—Section 5115(c)(3) is amended by insert-
21 ing before the period the following: “or by any other vol-
22 untary organization establishing consensus-based stand-
23 ards that the Secretary considers appropriate”.

24 (d) DISTRIBUTION AND PUBLICATION.—Section
25 5115(d) is amended—

1 (1) in the matter preceding paragraph (1), by
2 striking “national response team” and inserting
3 “National Response Team”; and

4 (2) in paragraph (2), by striking “publish a
5 list” and all that follows and inserting “publish and
6 distribute the list of courses maintained under this
7 section, and of any programs utilizing such
8 courses.”.

9 **SEC. 435. PLANNING AND TRAINING GRANTS; EMERGENCY**
10 **PREPAREDNESS FUND.**

11 (a) REFERENCE TO SECRETARY OF TRANSPOR-
12 TATION.—Section 5116 is amended by striking “of Trans-
13 portation” each place it appears in subsections (a), (b),
14 (c), (d), (g), and (i).

15 (b) GOVERNMENT SHARE OF COSTS.—Section
16 5116(e) is amended by striking the second sentence.

17 (c) MONITORING AND TECHNICAL ASSISTANCE.—
18 Section 5116(f) is amended by striking “national response
19 team” and inserting “National Response Team”.

20 (d) DELEGATION OF AUTHORITY.—Section 5116(g)
21 is amended by striking “Government grant programs” and
22 inserting “Federal financial assistance programs”.

23 (e) EMERGENCY PREPAREDNESS FUND.—

24 (1) NAME OF FUND.—Section 5116(i) is
25 amended by inserting after “an account” the fol-

1 lowing: “(to be known as the ‘Emergency Prepared-
2 ness Fund’)”.

3 (2) PUBLICATION OF EMERGENCY RESPONSE
4 GUIDE.—Section 5116(i) is further amended—

5 (A) by striking “collects under section
6 5108(g)(2)(A) of this title and”;

7 (B) in paragraph (2), by striking “and” at
8 the end;

9 (C) by redesignating paragraph (3) as
10 paragraph (4); and

11 (D) by inserting after paragraph (2) the
12 following new paragraph (3):

13 “(3) to publish and distribute an emergency re-
14 sponse guide; and”.

15 (3) CONFORMING AMENDMENT.—Section
16 5108(g)(2)(C) is amended by striking “the account
17 the Secretary of the Treasury establishes” and in-
18 serting “the Emergency Response Fund estab-
19 lished”.

20 (f) REPORTS.—Section 5116(k) is amended—

21 (1) by striking the first sentence and inserting
22 the following new sentence: “The Secretary shall
23 make available to the public annually information on
24 the allocation and uses of planning grants under
25 subsection (a), training grants under subsection (b),

1 and grants under subsection (j) of this section and
2 under section 5107 of this title.”; and

3 (2) in the second sentence, by striking “Such
4 report” and inserting “The information”.

5 **SEC. 436. SPECIAL PERMITS AND EXCLUSIONS.**

6 (a) SPECIAL PERMITS AND EXCLUSIONS.—

7 (1) IN GENERAL.—Section 5117(a)(1) is
8 amended by striking “the Secretary of Transpor-
9 tation may issue” and all that follows through “in
10 a way” and inserting “the Secretary may issue,
11 modify, or terminate a special permit authorizing
12 variances from this chapter, or a regulation pre-
13 scribed under section 5103(b), 5104, 5110, or 5112
14 of this title, to a person performing a function regu-
15 lated by the Secretary under section 5103(b)(1) of
16 this title in a way”.

17 (2) DURATION.—Section 5117(a)(2) is amend-
18 ed to read as follows:

19 “(2) A special permit under this subsection—

20 “(A) shall be effective when first issued for
21 not more than 2 years; and

22 “(B) may be renewed for a period of not
23 more than 4 years.”.

24 (b) REFERENCES TO SPECIAL PERMITS.—Section
25 5117 is further amended—

1 (1) by striking “an exemption” each place it ap-
2 pears and inserting “a special permit”; and

3 (2) by striking “the exemption” each place it
4 appears and inserting “the special permit”.

5 (c) CONFORMING AND CLERICAL AMENDMENTS.—

6 (1) CONFORMING AMENDMENT.—The heading
7 of section 5117 is amended to read as follows:

8 **“§ 5117. Special permits and exclusions”**

9 (2) CLERICAL AMENDMENT.—The table of sec-
10 tions at the beginning of chapter 51 is amended by
11 striking the item relating to section 5117 and insert-
12 ing the following new item:

“5117. Special permits and exclusions.”.

13 (d) REPEAL OF SECTION 5118.—

14 (1) Section 5118 is repealed.

15 (2) The chapter analysis for chapter 51 is
16 amended by striking the item relating to section
17 5118 and inserting the following:

“5118. Repealed”

18 **SEC. 437. UNIFORM FORMS AND PROCEDURES.**

19 The text of section 5119 is amended to read as fol-
20 lows:

21 “(a) IN GENERAL.—The Secretary may prescribe
22 regulations to establish uniform forms and regulations for
23 States on the following:

1 “(1) To register and issue permits to person
2 that transport or cause to be transported hazardous
3 material by motor vehicles in a State.

4 “(2) To permit the transportation of hazardous
5 material in a State.

6 “(b) UNIFORMITY IN FORMS AND PROCEDURES.—In
7 prescribing regulations under subsection (a) of this sec-
8 tion, the Secretary shall develop procedures to eliminate
9 discrepancies among the States in carrying out the activi-
10 ties covered by the regulations.

11 “(c) LIMITATION.—The regulations prescribed under
12 subsection (a) of this section may not define or limit the
13 amount of any fees imposed or collected by a State for
14 any activities covered by the regulations.

15 “(d) EFFECTIVE DATE.—(1) Except as provided in
16 paragraph (2) of this subsection, the regulations pre-
17 scribed under subsection (a) of this section shall take ef-
18 fect one year after the date on which prescribed under that
19 subsection.

20 “(2) The Secretary may postpone the effective date
21 of the regulations for an additional period of not to exceed
22 one year beyond the date effective date otherwise provided
23 under paragraph (1) of this subsection if the Secretary
24 determines that good cause exists for the postponement.

1 “(e) STATE REGULATIONS.—After the regulations
2 prescribed under subsection (a) of this section take effect
3 under subsection (d) of this section, a State may establish,
4 maintain, or enforce a requirement relating to an activity
5 covered by the regulations only if the requirement is con-
6 sistent with applicable requirements with respect to such
7 activity in the regulations.

8 “(f) INTERIM STATE PROGRAMS.—Pending the pre-
9 scription of regulations under subsection (a) of this sec-
10 tion, States may participate in the program of uniform
11 forms and procedures recommended by the Alliance for
12 Uniform Hazmat Transportation Procedures.”.

13 **SEC. 438. INTERNATIONAL UNIFORMITY OF STANDARDS**
14 **AND REQUIREMENTS.**

15 Section 5120 is amended by striking “of Transpor-
16 tation” each place it appears in subsections (a), (b), and
17 (c)(1).

18 **SEC. 439. HAZARDOUS MATERIALS TRANSPORTATION SAFE-**
19 **TY AND SECURITY.**

20 The text of section 5121 is amended to read as fol-
21 lows:

22 “(a) GENERAL AUTHORITY.—(1) To carry out this
23 chapter, the Secretary may investigate, conduct tests,
24 make reports, issue subpoenas, conduct hearings, require
25 the production of records and property, take depositions,

1 and conduct research, development, demonstration, and
2 training activities.

3 “(2) Except as provided in subsections (c) and (d)
4 of this section, the Secretary may provide notice and an
5 opportunity for a hearing before issuing an order directing
6 compliance with this chapter, a regulation prescribed
7 under this chapter, or an order, special permit, or approval
8 issued under this chapter.

9 “(b) RECORDS, REPORTS, PROPERTY, AND INFORMA-
10 TION.—A person subject to this chapter shall—

11 “(1) maintain records, make reports, and pro-
12 vide property and information that the Secretary by
13 regulation or order requires; and

14 “(2) make the records, reports, property, and
15 information available for inspection when the Sec-
16 retary undertakes an inspection or investigation.

17 “(c) INSPECTIONS AND INVESTIGATIONS.—(1) A des-
18 ignated officer or employee of the Secretary may—

19 “(A) inspect and investigate, at a reasonable
20 time and in a reasonable way, records and property
21 relating to a function described in section
22 5103(b)(1) of this title;

23 “(B) except for packaging immediately adjacent
24 to the hazardous material contents, gain access to,
25 open, and examine a package offered for or in trans-

1 portation when the officer or employees has an ob-
2 jectively reasonable and articulable belief that the
3 package may contain hazardous material;

4 “(C) remove from transportation a package or
5 related packages in a shipment offered for or in
6 transportation for which—

7 “(i) such officer or employee has an objec-
8 tively reasonable and articulable belief that the
9 package may pose an imminent hazard; and

10 “(ii) such officer or employee contempora-
11 neously documents such belief in accordance
12 with procedures set forth in regulations pre-
13 scribed under subsection (e) of this section;

14 “(D) gather information from the offeror, car-
15 rier, packaging manufacturer or retester, or other
16 person responsible for a package or packages to as-
17 certain the nature and hazards of the contents of
18 the package or packages;

19 “(E) as necessary under terms and conditions
20 prescribed by the Secretary, order the offeror, car-
21 rier, or other person responsible for a package or
22 packages to have the package or packages trans-
23 ported to an appropriate facility, opened, examined,
24 and analyzed; and

1 “(F) when safety might otherwise be com-
2 promised, authorize properly qualified personnel to
3 assist in activities carried out under this paragraph.

4 “(2) An officer or employee acting under the author-
5 ity of the Secretary under this subsection shall display
6 proper credentials when requested.

7 “(3) In instances when, as a result of an inspection
8 or investigation under this subsection, an imminent haz-
9 ards is not found to exist, the Secretary shall, in accord-
10 ance with procedures set forth in regulations prescribed
11 under subsection (e) of this section, assist the safe re-
12 sumption of transportation of the package, packages, or
13 transport unit concerned.

14 “(d) EMERGENCY ORDERS.—(1) If, upon inspection,
15 investigation, testing, or research, the Secretary deter-
16 mines that a violation of a provision of this chapter, or
17 a regulation prescribed under this chapter, or an unsafe
18 condition or practice, constitutes or is causing an immi-
19 nent hazard, the Secretary may issue or impose emergency
20 restrictions, prohibitions, recalls, or out-of-service orders,
21 without notice or an opportunity for a hearing, but only
22 to the extent necessary to abate the imminent hazard.

23 “(2) The action of the Secretary under paragraph (1)
24 of this subsection shall be in a written emergency order
25 that—

1 “(A) describes the violation, condition, or prac-
2 tice that constitutes or is causing the imminent haz-
3 ard;

4 “(B) states the restrictions, prohibitions, re-
5 calls, or out-of-service orders issued or imposed; and

6 “(C) describe the standards and procedures for
7 obtaining relief from the order.

8 “(3) After taking action under paragraph (1) of this
9 subsection, the Secretary shall provide for review of the
10 action under section 554 of title 5 if a petition for review
11 is filed within 20 calendar days of the issuance of the
12 order for the action.

13 “(4) If a petition for review of an action is filed under
14 paragraph (3) of this subsection and the review under that
15 paragraph is not completed by the end of the 30-day pe-
16 riod beginning on the date the petition is filed, the action
17 shall cease to be effective at the end of such period unless
18 the Secretary determines, in writing, that the imminent
19 hazard providing a basis for the action continues to exist.

20 “(5) In this subsection, the term ‘out-of-service order’
21 means a requirement that an aircraft, vessel, motor vehi-
22 cle, train, railcar, locomotive, other vehicle, transport unit,
23 transport vehicle, freight container, potable tank, or other
24 package not be moved until specified conditions have been
25 met.

1 “(e) REGULATIONS.—The Secretary shall prescribe
2 in accordance with section 553 of title 5 regulations to
3 carry out the authority in subsections (c) and (d) of this
4 section.

5 “(f) FACILITY, STAFF, AND REPORTING SYSTEM ON
6 RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary
7 shall—

8 “(A) maintain a facility and technical staff suf-
9 ficient to provide, within the United States Govern-
10 ment, the capability of evaluating a risk relating to
11 the transportation of hazardous material and mate-
12 rial alleged to be hazardous;

13 “(B) maintain a central reporting system and
14 information center capable of providing information
15 and advice to law enforcement and firefighting per-
16 sonnel, and other interested individuals, and officers
17 and employees of the United States Government and
18 State and local governments on meeting an emer-
19 gency relating to the transportation of hazardous
20 material; and

21 “(C) conduct a continuous review on all aspects
22 of transporting hazardous material to decide on and
23 take appropriate actions to ensure safe transpor-
24 tation of hazardous material.

1 “(2) Paragraph (1) of this subsection shall not pre-
2 vent the Secretary from making a contract with a private
3 entity for use of a supplemental reporting system and in-
4 formation center operated and maintained by the con-
5 tractor.

6 “(g) GRANTS, COOPERATIVE AGREEMENTS, AND
7 OTHER TRANSACTIONS.—The Secretary may enter into
8 grants, cooperative agreements, and other transactions
9 with a person, agency, or instrumentality of the United
10 States, a unit of State or local government, an Indian
11 tribe, a foreign government (in coordination with the De-
12 partment of State), an educational institution, or other ap-
13 propriate entity to do the following:

14 “(1) To expand risk assessment and emergency
15 response capabilities with respect to the security of
16 transportation of hazardous material.

17 “(2) To conduct research, development, dem-
18 onstration, risk assessment and emergency response
19 planning and training activities.

20 “(3) To otherwise carry out this chapter.

21 “(h) REPORTS.—(1) The Secretary shall, once every
22 2 years, submit to the President for transmittal to the
23 Senate Committee on Commerce, Science, and Transpor-
24 tation and the House of Representatives Committee on
25 Transportation and Infrastructure a comprehensive report

1 on the transportation of hazardous material during the
2 preceding 2 calendar years. Each report shall include, for
3 the period covered by such report—

4 “(A) a statistical compilation of the accidents
5 and casualties related to the transportation of haz-
6 ardous material during such period; and

7 “(B) a list and summary of applicable Govern-
8 ment regulations, criteria, orders, and special per-
9 mits;

10 “(C) a summary of the basis for each special
11 permit issued;

12 “(D) an evaluation of the effectiveness of en-
13 forcement activities relating to the transportation of
14 hazardous material during such period, and of the
15 degree of voluntary compliance with regulations;

16 “(E) a summary of outstanding problems in
17 carrying out this chapter, set forth in order of pri-
18 ority; and

19 “(F) any recommendations for legislative or ad-
20 ministrative action that the Secretary considers ap-
21 propriate.

22 “(2) Before December 31, 2004, and every 3 years
23 thereafter, the Secretary, through the Bureau of Trans-
24 portation Statistics and in consultation with other Federal
25 departments and agencies, shall submit a report to the

1 Senate Committee on Commerce, Science, and Transpor-
2 tation and the House of Representatives Committee on
3 Transportation and Infrastructure on the transportation
4 of hazardous material in all modes of transportation dur-
5 ing the preceding 3 calendar years. Each report shall in-
6 clude, for the period covered by such report—

7 “(A) a summary of the hazardous material
8 shipments, deliveries, and movements during such
9 period, set forth by tonnage by mode, both domesti-
10 cally and across United States borders; and

11 “(B) a summary of shipment estimates during
12 such period as a proxy for risk.

13 “(i) SECURITY SENSITIVE INFORMATION.—(1) If the
14 Secretary determines that particular information may re-
15 veal a vulnerability of a hazardous material to attack dur-
16 ing transportation in commerce, or may facilitate the di-
17 version of hazardous material during transportation in
18 commerce for use in an attack on people or property, the
19 Secretary may disclose such information only—

20 “(A) to the owner, custodian, offeror, or carrier
21 of such hazardous material;

22 “(B) to an officer, employee, or agent of the
23 United States Government, or a State or local gov-
24 ernment, including volunteer fire departments, con-
25 cerned with carrying out transportation safety laws,

1 protecting hazardous material in the course of trans-
2 portation in commerce, protecting public safety or
3 national security, or enforcing Federal law designed
4 to protect public health or the environment; or

5 “(C) in an administrative or judicial proceeding
6 brought under this chapter, under other Federal law
7 intended to protect public health or the environment,
8 or under other Federal law intended to address ter-
9 rorist actions or threats of terrorist actions.

10 “(2) The Secretary may make determinations under
11 paragraph (1) of this subsection with respect categories
12 of information in accordance with regulations prescribed
13 by the Secretary.

14 “(3) A release of information pursuant to a deter-
15 mination under paragraph (1) of this subsection shall not
16 be treated as a release of such information to the public
17 for purposes of section 552 of title 5.”.

18 **SEC. 440. ENFORCEMENT.**

19 (a) REFERENCE TO SECRETARY OF TRANSPOR-
20 TATION.—Section 5122(a) is amended by striking “of
21 Transportation”.

22 (b) GENERAL.—Section 5122(a) is further
23 amended—

24 (1) in the first sentence, by striking “or a regu-
25 lation prescribed or order” and inserting “, a regula-

1 tion prescribed under this chapter, or an order, spe-
2 cial permit, or approval”; and

3 (2) by striking the second sentence and insert-
4 ing the following new sentence: “In an action under
5 this subsection, the court may award appropriate re-
6 lief, including a temporary or permanent injunction,
7 civil penalties under section 5123 of this title, and
8 punitive damages.”.

9 (c) IMMINENT HAZARDS.—Section 5122(b)(1)(B) is
10 amended by striking “ameliorate” and inserting “miti-
11 gate”.

12 **SEC. 441. CIVIL PENALTIES.**

13 (a) REFERENCE TO SECRETARY OF TRANSPOR-
14 TATION.—Section 5123(b) is amended by striking “of
15 Transportation”.

16 (b) PENALTY.—Section 5123(a)(1) is amended—

17 (1) by striking “or a regulation prescribed or
18 order” and inserting “, a regulation prescribed
19 under this chapter, or an order, special permit, or
20 approval”;

21 (2) by striking “\$25,000” and inserting
22 “\$100,000”; and

23 (3) by striking the second sentence.

24 (c) HEARING REQUIREMENT.—Section 5123(c), as
25 redesignated by subsection (c)(1) of this section, is further

1 amended by striking “or a regulation prescribed” and in-
2 serting “, a regulation prescribed under this chapter, or
3 an order, special permit, or approval issued”.

4 (d) CIVIL ACTIONS TO COLLECT.—Section 5123(e),
5 as so redesignated, is further amended by inserting before
6 the period the following: “and any accrued interest on the
7 civil penalty as calculated in accordance with section 1005
8 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the
9 civil action, the amount and appropriateness of the civil
10 penalty shall not be subject to review”.

11 (e) EFFECTIVE DATE.—(1) The amendments made
12 by subsections (b) and (c) of this section shall take effect
13 on the date of the enactment of this Act, and shall apply
14 with respect to violations described in section 5123(a) of
15 title 49, United States Code (as amended by this section),
16 that occur on or after that date.

17 (2) The amendment made by subsection (e) of this
18 section shall apply with respect to civil penalties imposed
19 on violations described in section 5123(a) of title 49,
20 United States Code (as amended by this section), which
21 violations occur on or after the date of the enactment of
22 this Act.

23 **SEC. 442. CRIMINAL PENALTIES.**

24 (a) IN GENERAL.—Section 5124 is amended—

1 (1) by inserting “(a) IN GENERAL.—” before
2 “A person”; and

3 (2) by striking “or a regulation prescribed or
4 order” and inserting “, a regulation prescribed
5 under this chapter, or an order, special permit, or
6 approval”.

7 (b) ADDITIONAL MATTERS.—That section is further
8 amended by adding at the end the following new sub-
9 sections:

10 “(b) AGGRAVATED VIOLATIONS.—A person know-
11 ingly or willfully violating section 5104(b) of this title, or
12 a regulation prescribed, or an order, special permit, or ap-
13 proval issued, under this chapter, who thereby causes the
14 release of hazardous material shall be fined under title 18,
15 imprisoned for not more than 20 years, or both.

16 “(c) SEPARATE VIOLATIONS.—A separate violation
17 occurs for each day the violation, committed by a person
18 who transports or causes to be transported hazardous ma-
19 terial, continues.”.

20 **SEC. 443. PREEMPTION.**

21 (a) REFERENCE TO SECRETARY OF TRANSPOR-
22 TATION.—Section 5125(b)(2) is amended by striking “of
23 Transportation”.

24 (b) PURPOSES.—Section 5125 is amended—

1 (1) by redesignating subsections (a), (b), (c),
2 (d), (e), (f), and (g) as subsections (b), (c), (d), (e),
3 (f), (g), and (h), respectively; and

4 (2) by inserting before subsection (b), as so re-
5 designated, the following new subsection (a):

6 “(a) PURPOSES.—The Secretary shall exercise the
7 authority in this section—

8 “(1) to achieve uniform regulation of the trans-
9 portation of hazardous material;

10 “(2) to eliminate rules that are inconsistent
11 with the regulations prescribed under this chapter;
12 and

13 “(3) to otherwise promote the safe and efficient
14 movement of hazardous material in commerce.”.

15 (c) GENERAL PREEMPTION.—Section 5125(b), as re-
16 designated by subsection (b)(1) of this section, is further
17 amended by striking “GENERAL.—Except as provided in
18 subsection (b), (c), and (e)” and inserting “PREEMPTION
19 GENERALLY.—Except as provided in subsections (c), (d),
20 and (f)”.

21 (d) SUBSTANTIVE DIFFERENCES.—Section 5125(c),
22 as so redesignated, is further amended—

23 (1) in paragraph (1)—

1 (A) in the matter preceding subparagraph
2 (A), by striking “subsection (c)” and inserting
3 “subsection (d)”; and

4 (B) by striking subparagraph (E) and in-
5 serting the following new subparagraph (E):

6 “(E) the manufacturing, designing, inspecting,
7 testing, reconditioning, or repairing of a packaging
8 or packaging component that is represented as quali-
9 fied for use in transporting hazardous material in
10 commerce.”; and

11 (2) in paragraph (2), by striking “after Novem-
12 ber 16, 1990”.

13 (e) DECISIONS ON PREEMPTION.—Section 5125(e),
14 as so redesignated, is further amended—

15 (1) in the first sentence, by striking “subsection
16 (a), (b)(1), or (c) of this section” and inserting
17 “subsection (b), (c)(1), or (d) of this section or sec-
18 tion 5119(b) of this title”; and

19 (2) in the second sentence, by striking “in the
20 Federal Register”.

21 (f) WAIVER OF PREEMPTION.—Section 5125(f), as so
22 redesignated, is further amended by striking “subsection
23 (a), (b)(1), or (c) of this section” and inserting “sub-
24 section (b), (c)(1), or (d) of this section or section 5119(b)
25 of this title”.

1 (g) EMERGENCY WAIVER OF PREEMPTION.—Section
2 5125 is further amended—

3 (1) by redesignating subsections (g) and (h), as
4 redesignated by subsection (b)(1) of this section, as
5 subsections (h) and (i), respectively; and

6 (2) by inserting after subsection (f), as redesign-
7 nated by subsection (b)(1) of this section, the fol-
8 lowing new subsection (g):

9 “(g) EMERGENCY WAIVER OF PREEMPTION.—(1)
10 The Secretary may, upon a finding of good cause, waive
11 the preemption of a requirement of a State, political sub-
12 division of a State, or Indian tribe under this section with-
13 out notice or an opportunity for public comment thereon.

14 “(2) For purposes of paragraph (1) of this sub-
15 section, good cause exists when—

16 “(A) there is a potential threat that hazardous
17 material being transported in commerce may be used
18 in an attack on people or property; and

19 “(B) notice and an opportunity for public com-
20 ment thereon are impracticable or contrary to the
21 public interest.

22 “(3)(A) A waiver of preemption under paragraph (1)
23 of this subsection shall be in effect for a period specified
24 by the Secretary, but not more than 6 months.

1 “(B) If the Secretary determines before the expira-
2 tion of a waiver of preemption under subparagraph (A)
3 of this paragraph that the potential threat providing the
4 basis for the waiver continues to exist, the Secretary may
5 extend the duration of the waiver for such period after
6 the expiration of the waiver under that subparagraph as
7 the Secretary considers appropriate.

8 “(4) An action of the Secretary under paragraph (1)
9 or (3) of this subsection shall be in writing and shall set
10 forth the standards and procedures for seeking reconsider-
11 ation of the action.

12 “(5) After taking action under paragraph (1) or (3)
13 of this subsection, the Secretary shall provide for review
14 of the action if a petition for review of the action is filed
15 within 20 calendar days after the date of the action.

16 “(6) If a petition for review of an action is filed under
17 paragraph (5) of this subsection and review of the action
18 is not completed by the end of the 30-day period beginning
19 on the date the petition is filed, the waiver under this sub-
20 section shall cease to be effective at the end of such period
21 unless the Secretary determines, in writing, that the po-
22 tential threat providing the basis for the waiver con-
23 tinues.”.

24 (h) REPEAL OF JUDICIAL REVIEW.—Section 5125 is
25 further amended—

1 (1) by striking subsection (h), as redesignated
2 by subsection (g)(1) of this section; and

3 (2) by further redesignating subsection (i), as
4 so redesignated as subsection (h).

5 (i) ADDITIONAL MATTERS.—Section 5125 is further
6 amended by adding at the end the following new sub-
7 sections:

8 “(i) APPLICATION OF EACH PREEMPTION STAND-
9 ARD.—Each standard for preemption in subsection (b),
10 (c)(1), or (d) of this section, and in section 5119(b) of
11 this title, is independent in its application to a require-
12 ment of a State, political subdivision of a State, or Indian
13 tribe.

14 “(j) NON-FEDERAL ENFORCEMENT STANDARDS.—
15 This section does not apply to any procedure, penalty, re-
16 quired mental state, or other standard utilized by a State,
17 political subdivision of a State, or Indian tribe to enforce
18 a requirement applicable to the transportation of haz-
19 ardous material.”.

20 **SEC. 444. RELATIONSHIP TO OTHER LAWS.**

21 Section 5126 is amended—

22 (1) by striking “or causes to be transported
23 hazardous material” in subsection (a) and inserting
24 “hazardous material or causes hazardous material to
25 be transported”;

1 (2) by striking “manufactures” and all that fol-
2 lows through “or sells” in subsection (a) and insert-
3 ing “manufactures, designs, inspects, tests, recondi-
4 tions, marks, or repairs a packaging or packaging
5 component that is represented”;

6 (3) by striking “must” in subsection (a) and in-
7 serting “shall”;

8 (4) by striking “manufacturing” in subsection
9 (a) and all that follows through “testing” and in-
10 serting “manufacturing, designing, inspecting, test-
11 ing, reconditioning, marking, or repairing”; and

12 (5) by striking “39.” in subsection (b)(2) and
13 inserting “39, except in the case of an imminent
14 hazard.”.

15 **SEC. 445. JUDICIAL REVIEW.**

16 (a) IN GENERAL.—Chapter 51 is amended—

17 (1) by redesignating section 5127 as section
18 5128; and

19 (2) by inserting after section 5126 the following
20 new section 5127:

21 **“§ 5127. Judicial review**

22 “(a) FILING AND VENUE.—Except as provided in
23 section 20114(c) of this title, a person suffering legal
24 wrong or adversely affected or aggrieved by a final action
25 of the Secretary under this chapter may petition for review

1 of the final action in the United States Court of Appeals
2 for the District of Columbia or in the court of appeals
3 of the United States for the circuit in which the person
4 or resides or has the principal place of business. The peti-
5 tion shall be filed not more than 60 days after the action
6 of the Secretary becomes final.

7 “(b) PROCEDURES.—When a petition on a final ac-
8 tion is filed under subsection (a) of this section, the clerk
9 of the court shall immediately send a copy of the petition
10 to the Secretary. The Secretary shall file with the court
11 a record of any proceeding in which the final action was
12 issued as provided in section 2112 of title 28.

13 “(c) AUTHORITY OF COURT.—The court in which a
14 petition on a final action is filed under subsection (a) of
15 this section has exclusive jurisdiction, as provided in sub-
16 chapter II of chapter 5 of title 5 to affirm or set aside
17 any part of the final action and may order the Secretary
18 to conduct further proceedings. Findings of fact by the
19 Secretary, if supported by substantial evidence, are conclu-
20 sive.

21 “(d) REQUIREMENT FOR PRIOR OBJECTIONS.—In
22 reviewing a final action under this section, the court may
23 consider an objection to the final action only if—

24 “(1) the objection was made in the course of a
25 proceeding or review conducted by the Secretary; or

1 “(2) there was a reasonable ground for not
2 making the objection in the proceeding.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 51 is amended by striking the
5 item relating to section 5127 and inserting the following
6 new items:

 “5127. Judicial review.

 “5128. Authorization of appropriations.”.

7 **SEC. 446. AUTHORIZATION OF APPROPRIATIONS.**

8 Section 5128, as redesignated by section 128 of this
9 Act, is amended to read as follows:

10 **“§ 5128. Authorization of appropriations**

11 “(a) GENERAL.—In order to carry out this chapter
12 (except sections 5107(e), 5108(g), 5112, 5113, 5115,
13 5116, and 5119 of this title), the following amounts are
14 authorized to be appropriated to the Secretary:

15 “(1) For fiscal year 2004, not more than
16 \$24,981,000.

17 “(2) For fiscal year 2005, not more than
18 \$27,000,000.

19 “(3) For fiscal year 2006, not more than
20 \$29,000,000.

21 “(4) For each of fiscal years 2007 through
22 2009, not more than \$30,000,000.

1 “(b) EMERGENCY PREPAREDNESS FUND.—There
2 shall be available from the Emergency Preparedness Fund
3 under section 5116(i) of this title, amounts as follows:

4 “(1) To carry out section 5107(e) of this title,
5 \$4,000,000 for each of fiscal years 2004 through
6 2009.

7 “(2) To carry out section 5115 of this title,
8 \$200,000 for each of fiscal years 2004 through
9 2009.

10 “(3) To carry out section 5116(a) of this title,
11 \$8,000,000 for each of fiscal years 2004 through
12 2009.

13 “(4) To carry out section 5116(b) of this title,
14 \$13,800,000 for each of fiscal years 2004 through
15 2009.

16 “(5) To carry out section 5116(f) of this title,
17 \$150,000 for each of fiscal years 2004 through
18 2009.

19 “(6) To carry out section 5116(i)(4) of this
20 title, \$150,000 for each of fiscal years 2004 through
21 2009.

22 “(7) To carry out section 5116(j) of this title,
23 \$1,000,000 for each of fiscal years 2004 through
24 2009.

1 “(8) To publish and distribute an emergency
2 response guidebook under section 5116(i)(3) of title
3 49, United States Code, \$500,000 for each of fiscal
4 years 2004 through 2009.

5 “(c) CREDIT TO APPROPRIATIONS.—The Secretary
6 may credit to any appropriation to carry out this chapter
7 an amount received from a State, political subdivision of
8 a State, Indian tribe, or other public authority or private
9 entity for expenses the Secretary incurs in providing train-
10 ing to the State, political subdivision, Indian tribe, or
11 other authority or entity.

12 “(d) AVAILABILITY OF AMOUNTS.—Amounts avail-
13 able under subsections (a) and (b) of this section shall
14 remain available until expended.”.

15 **SEC. 447. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.**

16 (a) TITLE 49 PENALTIES.—Section 46312 is
17 amended—

18 (1) in subsection (a), by inserting “or chapter
19 51 of this title” after “under this part”; and

20 (2) in subsection (b), by inserting “or chapter
21 51 of this title” after “under this part”.

22 (b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of
23 title 18, United States Code, is amended by inserting
24 “5124,” before “46312,”.

1 SUBTITLE B—OTHER MATTERS
2 **SEC. 461. ADMINISTRATIVE AUTHORITY FOR RESEARCH**
3 **AND SPECIAL PROGRAMS ADMINISTRATION.**

4 Section 112 is amended—

5 (1) by redesignating subsection (e) as sub-
6 section (f); and

7 (2) by inserting after subsection (d) the fol-
8 lowing new subsection (e):

9 “(e) ADMINISTRATIVE AUTHORITIES.—

10 “(1) GRANTS, COOPERATIVE AGREEMENTS, AND
11 OTHER TRANSACTIONS.—The Administrator may
12 enter into grants, cooperative agreements, and other
13 transactions with Federal agencies, State and local
14 government agencies, other public entities, private
15 organizations, and other persons to do the following:

16 “(A) To conduct research into transpor-
17 tation service and infrastructure assurance.

18 “(B) To carry out other research activities
19 of the Administration.

20 “(2) LIMITATION ON DISCLOSURE OF CERTAIN
21 INFORMATION.—

22 “(A) LIMITATION.—If the Administrator
23 determines that particular information devel-
24 oped in research sponsored by the Administra-
25 tion may reveal a systemic vulnerability of

1 transportation service or infrastructure, such
2 information may be disclosed only to—

3 “(i) a person responsible for the secu-
4 rity of the transportation service or infra-
5 structure; or

6 “(ii) a person responsible for pro-
7 tecting public safety; or

8 “(iii) an officer, employee, or agent of
9 the Federal Government, or a State or
10 local government, who, as determined by
11 the Administrator, has need for such infor-
12 mation in the performance of official du-
13 ties.

14 “(B) TREATMENT OF RELEASE.—The re-
15 lease of information under subparagraph (A)
16 shall not be treated as a release to the public
17 for purposes of section 552 of title 5.”.

18 **SEC. 462. MAILABILITY OF HAZARDOUS MATERIALS.**

19 (a) NONMAILABILITY GENERALLY.—Section 3001 of
20 title 39, United States Code, is amended—

21 (1) by redesignating subsection (n) as sub-
22 section (o); and

23 (2) by inserting after subsection (m) the fol-
24 lowing new subsection (n):

1 “(n)(1) Except as otherwise authorized by law or reg-
2 ulations of the Postal Service under section 3018 of this
3 title, hazardous material is nonmailable.

4 “(2) In this subsection, the term ‘hazardous material’
5 means a substance or material designated by the Secretary
6 of Transportation as hazardous material under section
7 5103(a) of title 49.”.

8 (b) MAILABILITY.—(1) Chapter 30 of title 39, United
9 States Code, is amended by adding at the end the fol-
10 lowing new section:

11 **“§ 3018. Hazardous material**

12 “(a) IN GENERAL.—The Postal Service shall pre-
13 scribe regulations for the safe transportation of hazardous
14 material in the mails.

15 “(b) PROHIBITIONS.—No person may—

16 “(1) mail or cause to be mailed hazardous ma-
17 terial that has been declared by statute or Postal
18 Service regulation to be nonmailable;

19 “(2) mail or cause to be mailed hazardous ma-
20 terial in violation of any statute or Postal Service
21 regulation restricting the time, place, or manner in
22 which hazardous material may be mailed; or

23 “(3) manufacture, distribute, or sell any con-
24 tainer, packaging kit, or similar device that—

1 “(A) is represented, marked, certified, or
2 sold by such person for use in the mailing of
3 hazardous material; and

4 “(B) fails to conform with any statute or
5 Postal Service regulation setting forth stand-
6 ards for a container, packaging kit, or similar
7 device used for the mailing of hazardous mate-
8 rial.

9 “(c) CIVIL PENALTY.—

10 “(1) IN GENERAL.—A person who knowingly
11 violates this section or a regulation prescribed under
12 this section shall be liable to the Postal Service
13 for—

14 “(A) a civil penalty of at least \$250, but
15 not more than \$100,000, for each violation;

16 “(B) the costs of any clean-up associated
17 with such violation; and

18 “(C) damages.

19 “(2) KNOWING ACTION.—A person acts know-
20 ingly for purposes of paragraph (1) when—

21 “(A) the person has actual knowledge of
22 the facts giving rise to the violation; or

23 “(B) a reasonable person acting in the cir-
24 cumstances and exercising reasonable care
25 would have had that knowledge.

1 “(3) KNOWLEDGE OF STATUTE OR REGULA-
2 TION NOT ELEMENT OF OFFENSE.—Knowledge of
3 the existence of a statutory provision or Postal Serv-
4 ice regulation is not an element of an offense under
5 this subsection.

6 “(4) SEPARATE VIOLATIONS.—

7 “(A) VIOLATIONS OVER TIME.—A separate
8 violation under this subsection occurs for each
9 day hazardous material, mailed or cause to be
10 mailed in noncompliance with this section, is in
11 the mail.

12 “(B) SEPARATE ITEMS.—A separate viola-
13 tion under this subsection occurs for each item
14 containing hazardous material that is mailed or
15 caused to be mailed in noncompliance with this
16 section.

17 “(d) HEARINGS.—The Postal Service may determine
18 that a person has violated this section or a regulation pre-
19 scribed under this section only after notice and an oppor-
20 tunity for a hearing.

21 “(e) PENALTY CONSIDERATIONS.—In determining
22 the amount of a civil penalty for a violation of this section,
23 the Postal Service shall consider—

24 “(1) the nature, circumstances, extent, and
25 gravity of the violation;

1 “(2) with respect to the person who committed
2 the violation, the degree of culpability, any history of
3 prior violations, the ability to pay, and any effect on
4 the ability to continue in business;

5 “(3) the impact on Postal Service operations;
6 and

7 “(4) any other matters that justice requires.

8 “(f) CIVIL ACTIONS TO COLLECT.—

9 “(1) IN GENERAL.—In accordance with section
10 409(d) of this title, a civil action may be commenced
11 in an appropriate district court of the United States
12 to collect a civil penalty, clean-up costs, and dam-
13 ages assessed under subsection (c).

14 “(2) LIMITATION.—In a civil action under para-
15 graph (1), the validity, amount, and appropriateness
16 of the civil penalty, clean-up costs, and damages cov-
17 ered by the civil action shall not be subject to review.

18 “(3) COMPROMISE.—The Postal Service may
19 compromise the amount a civil penalty, clean-up
20 costs, and damages assessed under subsection (c) be-
21 fore commencing a civil action with respect to such
22 civil penalty, clean-up costs, and damages under
23 paragraph (1).

24 “(g) CIVIL JUDICIAL PENALTIES.—

1 “(1) IN GENERAL.—At the request of the Post-
2 al Service, the Attorney General may bring a civil
3 action in an appropriate district court of the United
4 States to enforce this section or a regulation pre-
5 scribed under this section.

6 “(2) RELIEF.—The court in a civil action under
7 paragraph (1) may award appropriate relief, includ-
8 ing a temporary or permanent injunction, civil pen-
9 alties as determined in accordance with this section,
10 or punitive damages.

11 “(3) CONSTRUCTION.—A civil action under this
12 subsection shall be in lieu of civil penalties for the
13 same violation under subsection (c)(1)(A).

14 “(h) DEPOSIT OF AMOUNTS COLLECTED.—Amounts
15 collected under this section shall be deposited into the
16 Postal Service Fund under section 2003 of this title.”.

17 (2) The table of sections at the beginning of chapter
18 30 of title 39, United States Code, is amended by adding
19 at the end the following new item:

 “3018. Hazardous material.”.

20 (c) CONFORMING AMENDMENT.—Section 2003(b) of
21 title 39, United States Code, is amended—

22 (1) in paragraph (7), by striking “and” at the
23 end;

24 (2) in paragraph (8), by striking the period at
25 the end and inserting “; and”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(9) any amounts collected under section 3018
4 of this title.”.

5 **SEC. 463. CRIMINAL MATTERS.**

6 Section 845(a)(1) of title 18, United States Code, is
7 amended by striking “which are regulated” and all that
8 follows and inserting “that is subject to the authority of
9 the Departments of Transportation and Homeland Secu-
10 rity;”.

11 **SEC. 464. CARGO INSPECTION PROGRAM.**

12 (a) IN GENERAL.—The Secretary of Transportation
13 may establish a program of random inspections of cargo
14 at points of entry into the United States for the purpose
15 of determining the extent to which undeclared hazardous
16 material is being offered for transportation in commerce
17 through such points of entry.

18 (b) INSPECTIONS.—Under the program under sub-
19 section (a)—

20 (1) an officer of the Department of Transpor-
21 tation who is not located at a point of entry into the
22 United States may select at random cargo shipments
23 at points of entry into the United States for inspec-
24 tion; and

1 (2) an officer or employee of the Department
2 may open and inspect each cargo shipment so se-
3 lected for the purpose described in subsection (a).

4 (c) COORDINATION.—The Secretary of Transpor-
5 tation shall coordinate any inspections under the program
6 under subsection (a) with the Secretary of Homeland Se-
7 curity.

8 (d) DISPOSITION OF HAZARDOUS MATERIALS.—The
9 Secretary of Transportation shall provide for the appro-
10 priate handling and disposition of any hazardous material
11 discovered pursuant to inspections under the program
12 under subsection (a).

13 **SEC. 465. INFORMATION ON HAZMAT REGISTRATIONS.**

14 The Administrator of the Department of Transpor-
15 tation's Research and Special Programs Administration
16 shall—

17 (1) transmit current hazardous material reg-
18 istrant information to the Federal Motor Carrier
19 Safety Administration to cross reference the reg-
20 istrant's Federal motor carrier registration number;
21 and

22 (2) notify the Federal Motor Carrier Safety Ad-
23 ministration immediately, and provide a registrant's
24 United States Department of Transportation identi-
25 fication number to the Administration, whenever a

1 new registrant registers to transport hazardous ma-
2 terials as a motor carrier.

3 **SEC. 466. REPORT ON APPLYING HAZARDOUS MATERIALS**
4 **REGULATIONS TO PERSONS WHO REJECT**
5 **HAZARDOUS MATERIALS.**

6 Within 6 months after the date of enactment of this
7 Act, the Secretary of Transportation shall complete an as-
8 sessment of the costs and benefits of subjecting persons
9 who reject hazardous material for transportation in com-
10 merce to the hazardous materials laws and regulations. In
11 completing this assessment, the Secretary shall—

12 (1) estimate the number of affected employers
13 and employees;

14 (2) determine what actions would be required
15 by them to comply with such laws and regulations;
16 and

17 (3) consider whether and to what extent the ap-
18 plication of Federal hazardous materials laws and
19 regulations should be limited to—

20 (A) particular modes of transportation;

21 (B) certain categories of employees; or

22 (C) certain classes or categories of haz-
23 ardous materials.

1 SUBTITLE C—SANITARY FOOD TRANSPORTATION

2 **SEC. 481. SHORT TITLE.**

3 This subtitle may be cited as the “Sanitary Food
4 Transportation Act of 2003”.

5 **SEC. 482. RESPONSIBILITIES OF THE SECRETARY OF**
6 **HEALTH AND HUMAN SERVICES.**

7 (a) UNSANITARY TRANSPORT DEEMED ADULTERA-
8 TION.—Section 402 of the Federal Food, Drug, and Cos-
9 metic Act (21 U.S.C. 342) is amended by adding at the
10 end the following:

11 “(i) NONCOMPLIANCE WITH SANITARY TRANSPOR-
12 TATION PRACTICES.—If the food is transported under
13 conditions that are not in compliance with the sanitary
14 transportation practices prescribed by the Secretary under
15 section 416.”.

16 (b) SANITARY TRANSPORTATION REQUIREMENTS.—
17 Chapter IV of the Federal Food, Drug, and Cosmetic Act
18 (21 U.S.C. 341 et seq.) is amended by adding at the end
19 the following:

20 **“SEC. 416. SANITARY TRANSPORTATION PRACTICES.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) BULK VEHICLE.—The term ‘bulk vehicle’
23 includes a tank truck, hopper truck, rail tank car,
24 hopper car, cargo tank, portable tank, freight con-
25 tainer, or hopper bin, and any other vehicle in which

1 food is shipped in bulk, with the food coming into
2 direct contact with the vehicle.

3 “(2) TRANSPORTATION.—The term ‘transportation’ means any movement in commerce by motor
4 vehicle or rail vehicle.
5

6 “(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices
7
8
9
10 prescribed by the Secretary to ensure that food is not
11 transported under conditions that may render the food
12 adulterated.

13 “(c) CONTENTS.—The regulations shall—

14 “(1) prescribe such practices as the Secretary
15 determines to be appropriate relating to—

16 “(A) sanitation;

17 “(B) packaging, isolation, and other protective measures;
18

19 “(C) limitations on the use of vehicles;

20 “(D) information to be disclosed—

21 “(i) to a carrier by a person arranging
22 for the transport of food; and

23 “(ii) to a manufacturer or other person that—
24

1 “(I) arranges for the transpor-
2 tation of food by a carrier; or

3 “(II) furnishes a tank vehicle or
4 bulk vehicle for the transportation of
5 food; and

6 “(E) recordkeeping; and

7 “(2) include—

8 “(A) a list of nonfood products that the
9 Secretary determines may, if shipped in a bulk
10 vehicle, render adulterated food that is subse-
11 quently transported in the same vehicle; and

12 “(B) a list of nonfood products that the
13 Secretary determines may, if shipped in a
14 motor vehicle or rail vehicle (other than a tank
15 vehicle or bulk vehicle), render adulterated food
16 that is simultaneously or subsequently trans-
17 ported in the same vehicle.

18 “(d) WAIVERS.—

19 “(1) IN GENERAL.—The Secretary may waive
20 any requirement under this section, with respect to
21 any class of persons, vehicles, food, or nonfood prod-
22 ucts, if the Secretary determines that the waiver—

23 “(A) will not result in the transportation
24 of food under conditions that would be unsafe
25 for human or animal health; and

1 “(B) will not be contrary to the public in-
2 terest.

3 “(2) PUBLICATION.—The Secretary shall pub-
4 lish in the Federal Register any waiver and the rea-
5 sons for the waiver.

6 “(e) PREEMPTION.—

7 “(1) IN GENERAL.—No State or political sub-
8 division of a State may directly or indirectly estab-
9 lish or continue in effect, as to any food in interstate
10 commerce, any authority or requirement concerning
11 transportation of food that is not identical to an au-
12 thority or requirement under this section.

13 “(2) APPLICABILITY.—This subsection applies
14 to transportation that occurs on or after the effec-
15 tive date of the regulations promulgated under sub-
16 section (b).

17 “(f) ASSISTANCE OF OTHER AGENCIES.—The Sec-
18 retary of Transportation, the Secretary of Agriculture, the
19 Administrator of the Environmental Protection Agency,
20 and the heads of other Federal agencies, as appropriate,
21 shall provide assistance on request, to the extent resources
22 are available, to the Secretary for the purposes of carrying
23 out this section.”.

24 (c) INSPECTION OF TRANSPORTATION RECORDS.—

1 (1) REQUIREMENT.—Section 703 of the Fed-
2 eral Food, Drug, and Cosmetic Act (21 U.S.C. 373)
3 is amended—

4 (A) by striking the section heading and all
5 that follows through “For the purpose” and in-
6 serting the following:

7 **“SEC. 703. RECORDS.**

8 “(a) IN GENERAL.—For the purpose”; and

9 (B) by adding at the end the following:

10 “(b) FOOD TRANSPORTATION RECORDS.—A shipper,
11 carrier by motor vehicle or rail vehicle, receiver, or other
12 person subject to section 416 shall, on request of an officer
13 or employee designated by the Secretary, permit the offi-
14 cer or employee, at reasonable times, to have access to
15 and to copy all records that the Secretary requires to be
16 kept under section 416(c)(1)(E).”.

17 (2) CONFORMING AMENDMENT.—Subsection (a)
18 of section 703 of the Federal Food, Drug, and Cos-
19 metic Act (as designated by paragraph (1)(A)) is
20 amended by inserting before the period at the end
21 the following: “, except as provided in subsection
22 (b)”.

23 (d) PROHIBITED ACTS.—

24 (1) RECORDS INSPECTION.—Section 301(e) of
25 the Federal Food, Drug, and Cosmetic Act (21

1 U.S.C. 331(e)) is amended by inserting “416,” be-
2 fore “504,” each place it appears.

3 (2) UNSAFE FOOD TRANSPORTATION.—Section
4 301 of the Federal Food, Drug, and Cosmetic Act
5 (21 U.S.C. 331) is amended by adding at the end
6 the following:

7 “(hh) NONCOMPLIANCE WITH SANITARY TRANSPOR-
8 TATION PRACTICES.—The failure by a shipper, carrier by
9 motor vehicle or rail vehicle, receiver, or any other person
10 engaged in the transportation of food to comply with the
11 sanitary transportation practices prescribed by the Sec-
12 retary under section 416.”.

13 **SEC. 483. DEPARTMENT OF TRANSPORTATION REQUIRE-**
14 **MENTS.**

15 Chapter 57 is amended to read as follows:

16 **“CHAPTER 57—SANITARY FOOD**
17 **TRANSPORTATION**

“Sec.

“5701. Food transportation safety inspections.

18 **“§ 5701. Food transportation safety inspections**

19 **“(a) INSPECTION PROCEDURES.—**

20 **“(1) IN GENERAL.—**The Secretary of Transpor-
21 tation, in consultation with the Secretary of Health
22 and Human Services and the Secretary of Agri-
23 culture, shall—

1 “(A) establish procedures for transpor-
2 tation safety inspections for the purpose of
3 identifying suspected incidents of contamination
4 or adulteration of—

5 “(i) food in violation of regulations
6 promulgated under section 416 of the Fed-
7 eral Food, Drug, and Cosmetic Act; and

8 “(ii) meat subject to detention under
9 section 402 of the Federal Meat Inspection
10 Act (21 U.S.C. 672); and

11 “(iii) poultry products subject to de-
12 tention under section 19 of the Poultry
13 Products Inspection Act (21 U.S.C. 467a);
14 and

15 “(B) train personnel of the Department of
16 Transportation in the appropriate use of the
17 procedures.

18 “(2) APPLICABILITY.—The procedures estab-
19 lished under paragraph (1) of this subsection shall
20 apply, at a minimum, to Department of Transpor-
21 tation personnel that perform commercial motor ve-
22 hicle or railroad safety inspections.

23 “(b) NOTIFICATION OF SECRETARY OF HEALTH AND
24 HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—
25 The Secretary of Transportation shall promptly notify the

1 Secretary of Health and Human Services or the Secretary
2 of Agriculture, as applicable, of any instances of potential
3 food contamination or adulteration of a food identified
4 during transportation safety inspections.

5 “(c) USE OF STATE EMPLOYEES.—The means by
6 which the Secretary of Transportation carries out sub-
7 section (b) of this section may include inspections con-
8 ducted by State employees using funds authorized to be
9 appropriated under sections 31102 through 31104 of this
10 title.”.

11 **SEC. 484. EFFECTIVE DATE.**

12 This subtitle takes effect on October 1, 2003.

13 **TITLE V—RECREATIONAL**
14 **BOATING SAFETY PROGRAMS**

15 **SEC. 501. SHORT TITLE.**

16 This title may be cited as the “Sport Fishing and
17 Recreational Boating Safety Act”.

18 SUBTITLE A—FEDERAL AID IN SPORT FISH

19 RESTORATION ACT AMENDMENTS

20 **SEC. 521. AMENDMENT OF FEDERAL AID IN FISH RESTORA-**
21 **TION ACT.**

22 Except as otherwise expressly provided, whenever in
23 this title an amendment or repeal is expressed in terms
24 of an amendment to, or repeal of, a section or other provi-
25 sion, the reference shall be considered to be made to a

1 section or other provision of the Act entitled “An Act to
2 provide that the United States shall aid the States in fish
3 restoration and management projects, and for other pur-
4 poses,” approved August 9, 1950 (64 Stat. 430; 16 U.S.C.
5 777 et seq.).

6 **SEC. 522. AUTHORIZATION OF APPROPRIATIONS.**

7 Section 3 (16 U.S.C. 777b) is amended—

8 (1) by striking “the succeeding fiscal year.” in
9 the third sentence and inserting “succeeding fiscal
10 years.”; and

11 (2) by striking “in carrying on the research
12 program of the Fish and Wildlife Service in respect
13 to fish of material value for sport and recreation.”
14 and inserting “to supplement the 55.3 percent of
15 each annual appropriation to be apportioned among
16 the States, as provided for in section 4(b) of this
17 Act.”.

18 **SEC. 523. DIVISION OF ANNUAL APPROPRIATIONS.**

19 Section 4 (16 U.S.C. 777c) is amended—

20 (1) by striking subsections (a) through (d) and
21 redesignating subsections (e), (f), and (g) as sub-
22 sections (b), (c), and (d);

23 (2) by inserting before subsection (b), as redes-
24 ignated, the following:

1 “(a) IN GENERAL.—For fiscal years 2004 through
2 2009, each annual appropriation made in accordance with
3 the provisions of section 3 of this Act shall be distributed
4 as follows:

5 “(1) COASTAL WETLANDS.—18 percent to the
6 Secretary of the Interior for distribution as provided
7 in the Coastal Wetlands Planning, Protection, and
8 Restoration Act (16 U.S.C. 3951 et seq.).

9 “(2) BOATING SAFETY.—18 percent to the Sec-
10 retary of Homeland Security for State recreational
11 boating safety programs under section 13106 of title
12 46, United States Code.

13 “(3) CLEAN VESSEL ACT.—1.9 percent to the
14 Secretary of the Interior for qualified projects under
15 section 5604(c) of the Clean Vessel Act of 1992 (33
16 U.S.C. 1322 note).

17 “(4) BOATING INFRASTRUCTURE.—1.9 percent
18 to the Secretary of the Interior for obligation for
19 qualified projects under section 7404(d) of the
20 Sportfishing and Boating Safety Act of 1998 (16
21 U.S.C. 777g-1(d)).

22 “(5) NATIONAL OUTREACH AND COMMUNICA-
23 TIONS.—1.9 percent to the Secretary of the Interior
24 for the National Outreach and Communications Pro-
25 gram under section 8(d) of this Act. Such amounts

1 shall remain available for 3 fiscal years, after which
2 any portion thereof that is unobligated by the Sec-
3 retary for that program may be expended by the
4 Secretary under subsection (b) of this section.

5 “(6) SET-ASIDE FOR EXPENSES FOR ADMINIS-
6 TRATION OF THIS CHAPTER.—

7 “(A) In general.—2.1 percent to the Sec-
8 retary of the Interior for expenses for adminis-
9 tration incurred in implementation of this Act,
10 in accordance with this section, section 9, and
11 section 14 of this Act.

12 “(B) APPORTIONMENT OF UNOBLIGATED
13 FUNDS.—If any portion of the amount made
14 available to the Secretary under subparagraph
15 (A) remains unexpended and unobligated at the
16 end of a fiscal year, that portion shall be appor-
17 tioned among the States, on the same basis and
18 in the same manner as other amounts made
19 available under this Act are apportioned among
20 the States under subsection (b) of this section,
21 within 60 days after the end of that fiscal year.
22 Any amount apportioned among the States
23 under this subparagraph shall be in addition to
24 any amounts otherwise available for apportion-

1 ment among the States under subsection (b) for
2 the fiscal year.”;

3 (3) by striking “of the Interior, after the dis-
4 tribution, transfer, use, and deduction under sub-
5 sections (a), (b), (c), and (d), respectively, and after
6 deducting amounts used for grants under section 14,
7 shall apportion the remainder” in subsection (b), as
8 redesignated, and inserting “shall apportion 55.3
9 percent”;

10 (4) by striking “per centum” each place it ap-
11 pears in subsection (b), as redesignated, and insert-
12 ing “percent”;

13 (5) by striking “subsections (a), (b)(3)(A),
14 (b)(3)(B), and (c)” in paragraph (1) of subsection
15 (d), as redesignated, and inserting “paragraphs (1),
16 (3), (4), and (5) of subsection (a)”;

17 (6) by adding at the end the following:

18 “(e) TRANSFER OF CERTAIN FUNDS.—Amounts
19 available under paragraphs (3) and (4) of subsection (a)
20 that are unobligated by the Secretary after 3 fiscal years
21 shall be transferred to the Secretary of Homeland Security
22 and shall be expended for State recreational boating safety
23 programs under section 13106(a) of title 46, United
24 States Code.”.

1 **SEC. 524. MAINTENANCE OF PROJECTS.**

2 Section 8 (16 U.S.C. 777g) is amended—

3 (1) by striking “in carrying out the research
4 program of the Fish and Wildlife Service in respect
5 to fish of material value for sport or recreation.” in
6 subsection (b)(2) and inserting “to supplement the
7 55.3 percent of each annual appropriation to be ap-
8 portioned among the States under section 4(b) of
9 this Act.”; and

10 (2) by striking “subsection (c) or (d) of section
11 4” in subsection (d)(3) and inserting “paragraph (5)
12 or (6) of section 4(a)”.

13 **SEC. 525. BOATING INFRASTRUCTURE.**

14 Section 7404(d)(1) of the Sportfishing and Boating
15 Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended
16 by striking “section 4(b)(3)(B)” and inserting “section
17 4(a)(4)”.

18 **SEC. 526. REQUIREMENTS AND RESTRICTIONS CON-**
19 **CERNING USE OF AMOUNTS FOR EXPENSES**
20 **FOR ADMINISTRATION.**

21 Section 9 (16 U.S.C. 777h) is amended—

22 (1) by striking “section 4(d)(1)” in subsection
23 (a) and inserting “section 4(a)(6)”; and

24 (2) by striking “section 4(d)(1)” in subsection
25 (b)(1) and inserting “section 4(a)(6)”.

1 **SEC. 527. PAYMENTS OF FUNDS TO AND COOPERATION**
2 **WITH PUERTO RICO, THE DISTRICT OF CO-**
3 **LUMBIA, GUAM, AMERICAN SAMOA, THE COM-**
4 **MONWEALTH OF THE NORTHERN MARIANA**
5 **ISLANDS, AND THE VIRGIN ISLANDS.**

6 Section 12 (16 U.S.C. 777k) is amended by striking
7 “in carrying on the research program of the Fish and
8 Wildlife Service in respect to fish of material value for
9 sport or recreation.” and inserting “to supplement the
10 55.3 percent of each annual appropriation to be appor-
11 tioned among the States under section 4(b) of this Act.”.

12 **SEC. 528. MULTISTATE CONSERVATION GRANT PROGRAM.**

13 Section 14 (16 U.S.C. 777m) is amended—

14 (1) by striking so much of subsection (a) as
15 precedes paragraph (2) and inserting the following:

16 “(a) IN GENERAL.—

17 “(1) AMOUNT FOR GRANTS.—For each of fiscal
18 years 2004 through 2009, 0.9 percent of each an-
19 nual appropriation made in accordance with the pro-
20 visions of section 3 of this Act shall be distributed
21 to the Secretary of the Interior for making
22 multistate conservation project grants in accordance
23 with this section.”;

24 (2) by striking “section 4(e)” each place it ap-
25 pears in subsection (a)(2)(B) and inserting “section
26 4(b)”;

1 (3) by striking “Of the balance of each annual
2 appropriation made under section 3 remaining after
3 the distribution and use under subsections (a), (b),
4 and (c) of section 4 for each fiscal year and after
5 deducting amounts used for grants under subsection
6 (a)—” in subsection (e) and inserting “Of amounts
7 made available under section 4(a)(6) for each fiscal
8 year—”.

9 SUBTITLE B—CLEAN VESSEL ACT AMENDMENTS

10 **SEC. 541. GRANT PROGRAM.**

11 Section 5604(C)(2) of the Clean Vessel Act of 1992
12 (33 U.S.C. 1322 note) is amended—

13 (1) by striking subparagraph (A); and
14 (2) by redesignating subparagraphs (B) and
15 (C) as subparagraphs (A) and (B), respectively.

16 SUBTITLE C—RECREATIONAL BOATING SAFETY
17 PROGRAM AMENDMENTS

18 **SEC. 561. STATE MATCHING FUNDS REQUIREMENT.**

19 Section 13103(b) of title 46, United States Code, is
20 amended by striking “one-half” and inserting “75 per-
21 cent”.

22 **SEC. 562. AVAILABILITY OF ALLOCATIONS.**

23 Section 13104(a) of title 46, United States Code, is
24 amended—

1 (1) by striking “2 years” in paragraph (1) and
2 inserting “3 years”; and
3 (2) by striking “2-year” in paragraph (2) and
4 inserting “3-year”.

5 **SEC. 563. AUTHORIZATION OF APPROPRIATIONS FOR**
6 **STATE RECREATIONAL BOATING SAFETY**
7 **PROGRAMS.**

8 Section 13106(c) of title 46, United States Code, is
9 amended—

10 (1) by striking “Secretary of Transportation
11 under paragraphs (2) and (3) of section 4(b)” and
12 inserting “Secretary under subsections (a)(2) and
13 (e) of section 4”; and

14 (2) by inserting “a minimum of” before
15 “\$2,000,000”.

16 **SEC. 564. MAINTENANCE OF EFFORT FOR STATE REC-**
17 **REATIONAL BOATING SAFETY PROGRAMS.**

18 (a) IN GENERAL.—Chapter 131 of title 46, United
19 States Code, is amended by inserting after section 13106
20 the following:

21 **“§ 13107. Maintenance of effort for State recreational boating**
22 **safety programs**

23 “(a) IN GENERAL.—The amount payable to a State
24 for a fiscal year from an allocation under section 13103
25 of this chapter shall be reduced if the usual amounts ex-

1 pended by the State for the State’s recreational boating
2 safety program, as determined under section 13105 of this
3 chapter, for the previous fiscal year is less than the aver-
4 age of the total of such expenditures for the 3 fiscal years
5 immediately preceding that previous fiscal year. The re-
6 duction shall be proportionate, as a percentage, to the
7 amount by which the level of State expenditures for such
8 previous fiscal year is less than the average of the total
9 of such expenditures for the 3 fiscal years immediately
10 preceding that previous fiscal year.

11 “(b) REDUCTION OF THRESHHOLD.—If the total
12 amount available for allocation and distribution under this
13 chapter in a fiscal year for all participating State rec-
14 reational boating safety programs is less than such
15 amount for the preceding fiscal year, the level of State
16 expenditures required under subsection (a) of this section
17 for the preceding fiscal year shall be decreased proportion-
18 ately.

19 “(c) WAIVER.—

20 “(1) IN GENERAL.—Upon the written request
21 of a State, the Secretary may waive the provisions
22 of subsection (a) of this section for 1 fiscal year if
23 the Secretary determines that a reduction in expend-
24 itures for the State’s recreational boating safety pro-
25 gram is attributable to a non- selective reduction in

1 expenditures for the programs of all Executive
 2 branch agencies of the State government, or for
 3 other reasons if the State demonstrates to the Sec-
 4 retary's satisfaction that such waiver is warranted.

5 “(2) 30-DAY DECISION.—The Secretary shall
 6 approve or deny a request for a waiver not later
 7 than 30 days after the date the request is received.”.

8 (b) CONFORMING AMENDMENT.—The chapter anal-
 9 ysis for chapter 131 of title 46, United States Code, is
 10 amended by inserting after the item relating to section
 11 13106 the following:

“13107. Maintenance of effort for State recreational boating safety pro-
 grams.”.

12 SUBTITLE D—AMENDMENTS TO THE TRUST FUND
 13 CODE

14 **SEC. 581. TRANSFERS FROM THE TRUST FUND FOR MOTOR-**
 15 **BOAT FUEL TAXES.**

16 Paragraph (4) of section 9503(c) of the Internal Rev-
 17 enue Code of 1986 (26 U.S.C. 9503(c)) is amended—

18 (1) by striking so much of that paragraph as
 19 precedes subparagraph (C) and inserting the fol-
 20 lowing:

21 “(4) TRANSFERS FROM THE TRUST FUND FOR MO-
 22 TORBOAT FUEL TAXES.—

23 “(A) TRANSFER TO LAND AND WATER CON-
 24 SERVATION FUND.—

1 “(i) IN GENERAL.—The Secretary shall
2 pay from time to time from the Highway Trust
3 Fund into the land and water conservation fund
4 provided for in title I of the Land and Water
5 Conservation Fund Act of 1965 amounts (as
6 determined by him) equivalent to the motorboat
7 fuel taxes received on or after October 1, 2003,
8 and before October 1, 2009.

9 “(ii) LIMITATION.—The aggregate amount
10 transferred under this subparagraph during any
11 fiscal year shall not exceed \$1,000,000.

12 “(B) EXCESS FUNDS TRANSFERRED TO SPORT
13 FISH RESTORATION ACCOUNT.—Any amounts re-
14 ceived in the Highway Trust Fund—

15 “(i) which are attributable to motorboat
16 fuel taxes, and

17 “(ii) which are not transferred from the
18 Highway Trust Fund under subparagraph (A),
19 shall be transferred by the Secretary from the High-
20 way Trust Fund into the Sport Fish Restoration Ac-
21 count in the Aquatic Resources Trust Fund.”; and

22 (2) By striking subparagraph (C) and redesign-
23 ating subparagraphs (D) and (E) as subparagraphs
24 (C) and (D), respectively.

1 **SEC. 582. EXPENDITURES FROM THE BOAT SAFETY AC-**
2 **COUNT.**

3 Section 9504(c) of the Internal Revenue Code of
4 1986 (26 U.S.C. 9504(c)) is amended to read as follows:

5 “(c) EXPENDITURES FROM BOAT SAFETY AC-
6 COUNT.—Amounts in the Boat Safety Account on the date
7 of enactment of the Sport Fishing and Recreational Boat-
8 ing Safety Act, and amounts thereafter credited to the Ac-
9 count under section 9602(b), shall be available, without
10 further appropriation, in the following amounts:

11 “(1) In fiscal year 2004, \$28,155,000 shall be
12 distributed—

13 “(A) under section 4 of the Act entitled
14 “An Act to provide that the United States shall
15 aid the States in fish restoration and manage-
16 ment projects, and for other purposes,” ap-
17 proved August 9, 1950 (16 U.S.C. 777c) in the
18 following manner:

19 “(i) \$11,200,000 to be added to funds
20 available under subsection (a)(2) of that
21 section,

22 “(ii) \$1,245,000 to be added to funds
23 available under subsection (a)(3) of that
24 section,

1 “(iii) \$1,245,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$1,245,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$12,800,000 to be added to
8 funds available under subsection (b) of
9 that section, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$420,000, to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(2) In fiscal year 2005, \$22,419,000 shall be
15 distributed—

16 “(A) under section 4 of that Act (16
17 U.S.C. 777c) in the following manner:

18 “(i) \$8,075,000 to be added to funds
19 available under subsection (a)(2) of that
20 section,

21 “(ii) \$713,000 to be added to funds
22 available under subsection (a)(3) of that
23 section,

1 “(iii) \$713,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$713,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$11,925,000 to be added to
8 funds available under subsection (b) of
9 that Act, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$280,000 to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(3) In fiscal year 2006, \$17,139,000 shall be
15 distributed—

16 “(A) under section 4 of that Act (16
17 U.S.C. 777c) in the following manner:

18 “(i) \$6,800,000 to be added to funds
19 available under subsection (a)(2) of that
20 section,

21 “(ii) \$333,000 to be added to funds
22 available under subsection (a)(3) of that
23 section,

1 “(iii) \$333,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$333,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$9,200,000 to be added to funds
8 available under subsection (b) of that sec-
9 tion, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$140,000, to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(4) In fiscal year 2007, \$12,287,000 shall be
15 distributed—

16 “(A) under section 4 of that Act (16
17 U.S.C. 777c) in the following manner:

18 “(i) \$5,100,000 to be added to funds
19 available under subsection (a)(2) of that
20 section,

21 “(ii) \$48,000 to be added to funds
22 available under subsection (a)(3) of that
23 section,

1 “(iii) \$48,000 to be added to funds
2 available under subsection (a)(4) of that
3 section,

4 “(iv) \$48,000 to be added to funds
5 available under subsection (a)(5) of that
6 section, and

7 “(v) \$6,900,000 to be added to funds
8 available under subsection (b) of that sec-
9 tion, and

10 “(B) under section 14 of that Act (16
11 U.S.C. 777m), \$143,000, to be added to funds
12 available under subsection (a)(1) of that sec-
13 tion.

14 “(5) In fiscal year 2008, all remaining funds in
15 the Account shall be distributed under section 4 of
16 that Act (16 U.S.C. 777c) in the following manner:

17 “(A) one-third to be added to funds avail-
18 able under subsection (b), and

19 “(B) two-thirds to be added to funds avail-
20 able under subsection (h).”.

○